

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

STATE OF WASHINGTON, *et al.*,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
STATE, *et al.*,

Defendants.

NO. C18-1115RSL

DECLARATION OF GERALD
COYNE IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION

1. I am the Deputy Attorney General of the State of Rhode Island and I have served in this position since 1999. As Deputy Attorney General, I serve as the Chief Deputy to the Rhode Island Attorney General. I report directly to the Rhode Island Attorney General on all matters involving the Office of the Rhode Island Attorney General, including but not limited to matters occurring within our Criminal Division and our Civil Division.
2. Among the duties of the Office of Attorney General is to “draw and present all informations and indictments, or other legal or equitable process, against any offenders, as by law required, and diligently, by a due course of law or equity, prosecute them to final judgment and execution.” See R.I. Gen. Laws § 42-9-4 (a).
3. Within the Office of the Attorney General is the Bureau of Criminal Investigation (“BCI”). Pursuant to statute, the Bureau is charged with initiating criminal investigations for violations of law at the direction of the Attorney General and coordinating efforts in investigating criminal activity with existing federal, state, and local law enforcement officials. See R.I. Gen. Laws § 42-9-8.1(2).
4. Rhode Island uses a variety of approaches to enforce its statutory codes and ensure the safety and physical well-being of its residents with respect to firearms, including but not limited to using metal detectors at government facilities and T.F. Green Airport. The production of functional weapons made out of materials other than metal, such as those made by a 3-D printer, will be unrecognizable by standard metal detectors, thereby obfuscating Rhode Island’s efforts to protect the safety of its residents at government facilities and T.F. Green Airport.
5. Rhode Island further enforces its statutory codes by issuing licenses or permits to persons to carry firearms (whether concealed or not concealed). For example, Rhode Island law

provides that the Attorney General “may issue a license or permit to any person twenty-one (21) years of age or over to carry a pistol or revolver, whether concealed or not, upon his or her person upon a proper showing of need[.]” See R.I. Gen. Laws § 11-47-18(a).

6. Rhode Island General Laws § 11-47-5(a) also provides that “[n]o person shall purchase, own, carry, transport, or have in his or her possession any firearm,” if that person has been convicted of a “crime of violence,” “is a fugitive from justice,” has been convicted or pled nolo contendere to an offense punishable as a felony, or has been convicted or pled nolo contendere to certain other enumerated offenses. See R.I. Gen. Laws § 11-47-5(a)(4)(i)-(iv). If the Government’s “temporary modification” is left in place, Rhode Island will suffer extreme and irreparable harm, as persons ineligible to possess firearms under Rhode Island General Laws § 11-47-18(a), § 11-47-11(a), and § 11-47-5(a)(4)(i)-(iv) will easily be able to obtain downloadable and untraceable guns that can be made at home using a 3-D printer.
7. The Attorney General of Rhode Island is additionally vested with the discretionary authority to “issue to any person, firm, or corporation, engaged in manufacturing in this state, a license or permit to manufacture and sell machine guns and any or all machine gun parts[.]” See R.I. Gen. Laws § 11-47-19. The Attorney General’s authority as it relates to a licensing and permitting scheme pertaining to the manufacture of weapons will be circumvented and effectively nullified if persons may use CAD files to produce firearms on 3-D printers.
8. Rhode Island recently enacted a so-called “red flag” law, which provides a procedure where a petition may be filed in a court of law “requesting an extreme risk protection order that shall enjoin the respondent from having in their possession, custody or control any firearms and shall further enjoin the respondent from purchasing, receiving or attempting to purchase or receive any firearms while the order is in effect.” See R.I. Gen. Laws § 8-8.3-3(b). Rhode Island’s “red flag” law will be severely undermined, and easily circumvented, if such subjected individuals are able to produce functional weapons on a 3-D printer. Consequently, Rhode Island’s strong interest in protecting public safety will be severely harmed and undermined if the “temporary modification” of the USML Category 1 is allowed.
9. The Government’s “temporary modification” of the USML Category 1 to allow “any United States person” to “access, discuss, use, reproduce, or otherwise benefit from” CAD files for the automated production of 3-D printed weapons hinders and contravenes the above Rhode Island laws regarding firearm regulation, among others. Persons currently prohibited from possessing firearms will be able to circumvent Rhode Island law by manufacturing such a weapon on a 3D printer. These weapons will be untraceable,

undetectable by typical metal detectors, and avoid all licensing and permitting statutory requirements.

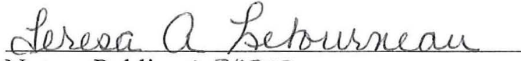
DATED this 6 day of August, 2018 at Providence, Rhode Island.



Gerald Coyne
Deputy Attorney General
Office of the Rhode Island Attorney
General

STATE OF RHODE ISLAND
COUNTY OF PROVIDENCE

Subscribed and sworn to before me on this 6th day of , 2018.



Notary Public # 37888

My Commission Expires: 8/22/19

The Honorable Robert S. Lasnik

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

STATE OF WASHINGTON; STATE OF
CONNECTICUT; STATE OF MARYLAND;
STATE OF NEW JERSEY; STATE OF NEW
YORK; STATE OF OREGON;
COMMONWEALTH OF
MASSACHUSETTS; COMMONWEALTH
OF PENNSYLVANIA; DISTRICT OF
COLUMBIA; STATE OF CALIFORNIA;
STATE OF COLORADO; STATE OF
DELAWARE; STATE OF HAWAII; STATE
OF ILLINOIS; STATE OF IOWA; STATE OF
MINNESOTA; STATE OF NORTH
CAROLINA; STATE OF RHODE ISLAND;
STATE OF VERMONT and STATE OF
VIRGINIA,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
STATE; MICHAEL R. POMPEO, in his
official capacity as Secretary of State;
DIRECTORATE OF DEFENSE TRADE
CONTROLS; MIKE MILLER, in his official
capacity as Acting Deputy Assistant Secretary
of Defense Trade Controls; SARAH
HEIDEMA, in her official capacity as Director
of Policy, Office of Defense Trade Controls
Policy; DEFENSE DISTRIBUTED; SECOND
AMENDMENT FOUNDATION, INC.; AND
CONN WILLIAMSON,

Defendants.

NO. 2:18-cv-01115-RSL

DECLARATION OF BLAKE GRAHAM,
SPECIAL AGENT SUPERVISOR FOR THE
CALIFORNIA DEPARTMENT OF
JUSTICE, BUREAU OF FIREARMS

Decl. of Blake Graham ISO Pls.' Mot. for Prelim. Inj. (18-cv-01115)

DECLARATION OF BLAKE GRAHAM

I, BLAKE GRAHAM, declare:

1. I am a Special Agent Supervisor for the California Department of Justice, Bureau of Firearms. I make this declaration of my own personal knowledge and experience and, if called as a witness, I could and would testify competently to the truth of the matters set forth herein.

BACKGROUND AND QUALIFICATIONS

2. I received a Bachelor of Science degree in May 1992, in Criminal Justice from the California State University, Sacramento. My coursework included forensics, corrections, and a number of classes in criminal-justice related topics.

3. Since 1994, I have worked as either an Investigator for the California Department of Alcoholic Beverage Control (ABC), or as a Special Agent for the California Department of Justice (DOJ). My job responsibilities in all of these positions have at least partially required the recovery, investigation, and identification of firearms.

4. My work as an Investigator for ABC between 1994 and 1999 included the recovery of firearms and ammunition, which would be catalogued and booked into evidence.

5. Between 1999 and 2002, I worked as a Special Agent for DOJ, and was assigned to the Violence Suppression Program in the Bureau of Narcotic Enforcement. In this job, I investigated violent crimes and various violations occurring at California gun shows. As a gun show agent, I attended gun shows in the San Francisco Bay Area to monitor—and if necessary, seize—firearms, ammunition, and magazines sold illegally to felons, parolees, and probationers.

6. From October 2002 to the present, I have been a Special Agent and Special Agent Supervisor, for the DOJ's Bureau of Firearms (BOF). In this capacity, I am assigned to recover firearms from prohibited individuals, monitor gun shows for illegal activities, conduct surveillance on gun dealers suspected of illegal activity, and investigate illegal trafficking of firearms, manufacturing of assault weapons, machine guns, and illegal possession of ammunition.

7. Since 2008, I have been responsible for reviewing handguns that are submitted by manufacturers for inclusion on California's roster of handguns certified for sale.

1 Through this process, I have become familiar with the components and calibers of numerous
2 handguns currently and previously on the roster. As of August 7, 2018, there were 815
3 handguns on the roster. A copy of the roster, which can change daily, can be found on the DOJ
4 website: <https://oag.ca.gov/firearms/certguns?make=All>.

5 8. In my career, I have attended at least 40 gun shows and visited over one hundred
6 gun stores and have become knowledgeable on current laws pertaining to the sales and
7 licensed manufacture of firearms, and unlicensed manufacture of unserialized firearms
8 (sometimes called “ghost guns”) in the State of California.

9 9. I have been trained and qualified to carry several different types of firearms,
10 including: Glock Model 17 (9 mm semi-automatic pistol), multiple Glock .40 caliber semi-
11 automatic pistols, Heckler & Koch MP5 (9 mm submachine gun), Smith & Wesson, Model
12 60 (.38 Special revolver), multiple .45 caliber semi-automatic pistols, and a Colt, Model M4
13 (5.56 mm machine gun). I have access to other Department-owned handguns, shotguns,
14 submachine guns, machine guns, rifles, shotguns and 40 mm “less lethal” launchers.

15 10. Throughout my career, I have conducted training programs in the identification
16 and handling of firearms. I have trained other Special Agents in BOF on assault weapons
17 and firearms identification. I also have given firearms identification classes to members of
18 California District Attorney’s offices and Law Enforcement Agencies.

19 11. I have also completed at least 15 firearms training courses since 1994. These courses
20 included the assembly and use of specific firearms, cartridge composition (bullet, the
21 propellant, and the casing), common calibers used by law enforcement, and training on rifle
22 and handgun ammunition. I have been certified as a California Peace Officer Standards and
23 Training approved Firearms Instructor/Range Master since 2002.

24 12. During the course of my career, I have become proficient in the use and disassembly
25 of various revolvers, pistols, submachine guns, shotguns, and rifles. I have made or assisted in
26 the arrest of at least 30 persons for violations involving illegal weapons possession. In the course
27 of my employment I have participated in excess of 30 search warrants that involved the illegal
28 possession of firearms.

17. After the mass shooting in Sandy Hook, Connecticut, in 2012, I noticed a spike in non-licensed firearms manufacturing. Based on my experience as a law enforcement officer attending gun shows, visiting gun stores, and reading firearms websites, it seemed that there was a general fear among a certain segment of firearms owners in California that the State or Federal government might pass restrictive firearms laws because of the shooting.

18. In general, until about a year ago, roughly 90% of the ghost-gun market, in my estimation, was for AR-15 and AK-47 based models. Based on my experience, some handguns and other long guns were being made, but the vast majority of ghost guns were either AR-15 or AK-47 based designs and builds. In the past year or so, kits allowing a purchaser to build semi-automatic handgun designs have become widely available. These kits are mainly polymer type plastic frames with Glock internal parts and Glock-like slides. (Glock is a Federal Firearms Licensee that makes handguns in Austria and the United States. These semi-automatic handguns are relatively inexpensive, reliable, and very popular.) Video tutorials on how to build these self-built handguns are widely available on the Internet. If a person uses a kit to manufacture a semi-automatic handgun, they risk criminal liability under California's Unsafe Handgun Act, unless they are manufacturing the gun for testing and approval under the Act. Among other things, the Act requires that pistols include certain features, such as chamber-load indicators, magazine disconnects, and microstamping technology. Cal. Penal Code § 31910(b). (Pistols that have been grandfathered in under the Act or that satisfy certain other requirements do not have to include these features.)

GHOST GUNS IN CALIFORNIA

19. The Firearms Industry often outpaces state and federal laws. Firearms accessories are constantly being developed that might be legal in one state and not legal in California. California has numerous unique firearms laws. Not only has there been increased interest in manufacturing ghost guns in recent years, but developments, including the use of types of plastics to manufacture frames and receivers, have made ghost guns more accessible. Ghost-gun-related crime is a significant source of concern in the law-enforcement community in California, and I have come to the conclusion that ghost guns, including 3D printed guns, are a significant public

1 safety concern. I base this conclusion on my own investigative and law-enforcement duties and
2 experience, as well as information available to me in my capacity as a Special Agent Supervisor
3 for BOF.

4 **I. Personal Involvement in Ghost Gun Investigations**

5 20. To my knowledge, the first California Department of Justice investigation that
6 involved the unlicensed manufacturing of un-serialized firearms occurred sometime in 2004
7 to 2005. From that point until 2013, the number of investigations involving unlicensed and
8 un-serialized firearms manufacturing that the Department was involved in grew slowly.

9 Then, beginning in early 2013, I became aware of relatively large numbers of individuals in
10 California building firearms from unfinished firearm receivers or unfinished firearm frames.

11 21. In March 2013, I served as part of a joint task force between the BOF and ATF,
12 investigating Luis Cortez-Garcia and Emiliano Cortez-Garcia for selling manufactured-to-order
13 firearms that did not have manufacturer markings or serial numbers, making them untraceable.
14 They and their co-conspirators would sell customers, who paid in cash, all the working parts of a
15 firearm and an incomplete lower receiver. They would have the customer visit Emiliano Cortez-
16 Garcia, who would have the customer initially drill a few holes into the fire control pocket and
17 then Emiliano himself would complete the machining process of making the unfinished receiver
18 into a finished lower receiver. Emiliano and Luis—both of whom were prohibited from
19 possessing firearms—would assemble the parts into completed AR-15-style ghost guns. As a
20 result of this investigation, law-enforcement agents seized almost 350 guns from ten locations in
21 the 200-mile span from Fresno to Auburn, California. Emiliano and Luis were indicted,
22 convicted, and sentenced for multiple firearms violations.

23 22. During the Cortez-Garcia investigation, we learned of another location making ghost
24 guns in a machine shop equipped with computer numeric control (CNC) machines. The owner of
25 this machine shop was Daniel Crowninshield, who had given himself the nickname “Dr. Death”
26 on a firearms enthusiast website and who was prohibited by state and federal law from owning,
27 possessing, or manufacturing firearms. As a result of this investigation, Crowninshield was later
28 indicted by a federal grand jury and ultimately convicted and sentenced to prison.

23. Since the investigations into the Cortez-Garcia brothers and Crowninshield, I have participated in or consulted on several investigations involving ghost guns not described in this declaration.

II. An Overview of Several Significant Ghost Gun Investigations in California

24. As part of my duties, I collect information about ghost-gun related crime in the State and across the United States. This information comes primarily from news reports and press releases from various law-enforcement agencies, but also from my contacts in the law-enforcement community. In addition, BOF's current record keeping generates some information about the use of ghost guns in crime.

25. While my research is ongoing, I have assembled a chronology of significant ghost-gun crimes in the State:

- a. **June 2013.** John Zawahri, of Santa Monica, California, killed five people and wounded three others using a ghost gun—a homemade AR-15-style assault rifle. Several months earlier, BOF had stopped him from purchasing a firearm when a background check showed that he was a prohibited person because of a commitment in a mental-health institution.
- b. **February 2014.** A federal grand jury indicted brothers Luis Cortez-Garcia and Emiliano Cortez-Garcia, who operated an unlicensed firearms business in Sacramento, on charges of unlawful manufacturing and sales of firearms (arising from the investigation that I participated in, discussed in ¶ 21, above). They were later convicted and sentenced for these crimes.
- c. **March 2014.** Federal agents from ATF served a search warrant on an unlicensed firearms-accessory store in San Diego County and recovered about 6,000 unserialized polymer AR-15 lower receivers that had been fabricated to eliminate the need for precise machining to make them functional. The search also uncovered information showing that more than 5,000 customers had purchased these receivers with no background checks associated to the sales of these receivers.

- 1 d. **June 2014.** Daniel Crowninshield, of Sacramento, California, was indicted for
2 various firearms crimes, including operating a scheme designed to sell ghost guns
3 by having customers participate in a trivial step in the manufacturing process
4 (arising from the investigation that I participated in, discussed in ¶ 22, above).
- 5 e. **July 2014.** Three Norteño gang members used an AK-47-style ghost gun and
6 several handguns in an attempted bank robbery in Stockton, California. They
7 kidnapped three patrons and led law enforcement on an hour-long chase, firing
8 hundreds of shots. Two of the gang members and one of the hostages died during
9 the shootout.
- 10 f. **May 2015.** Clay Bautista-Marquez pleaded guilty to firearms trafficking. He and
11 three other men were making and selling illegal ghost guns from un-serialized AR-
12 15 style lower receivers. More than 50 firearms were seized during the
13 investigation. Some of the ghost guns were short-barrel rifles and assault
14 weapons.
- 15 g. **July 2015.** Scott Bertics murdered his former girlfriend and then killed himself in
16 Walnut Creek, California, using a ghost gun.
- 17 h. **October 2015.** Federal officials indicted eight men in Northern California for
18 running an illegal gun-selling ring. Many of the firearms seized were un-serialized
19 ghost-gun, short-barrel rifles and un-serialized ghost-gun assault weapons.
- 20 i. **January 2016.** Craig Mason of Grass Valley, CA was indicted for unlawful
21 dealing of firearms and unlawful manufacture of firearms. Mason helped
22 manufacture two AR-15-style ghost guns for a confidential informant who told
23 Mason he was a felon.
- 24 j. **February 2016.** A Federal Firearms Licensee, Christopher Cook of Bakersfield,
25 California, forfeited 3,800 polymer lower receivers for AR-15-style guns. He had
26 illegally manufactured those firearms with no serial numbers and sold 33 of them
27 to ATF agents without conducting a background check or completing legally
28

- 1 required paperwork. It is unknown how many of these ghost guns were sold to
 2 members of the public before the ATF investigation closed this operation down.
- 3 k. **November 2016.** ATF agents and LAPD officers purchased seven ghost guns in
 4 an investigation that ultimately led to 17 gang members, felons, and their
 5 associates being arrested on firearms and narcotics charges.
- 6 l. **March 2017.** James Smallwood and John Smallwood of Sacramento, California,
 7 were indicted for illegal firearms sales, including 17 AR-15-style ghost guns. At
 8 the time of his arrest, James Smallwood was arrested en-route to sell 14 more
 9 ghost guns.
- 10 m. **March 2017.** Scott Coyle of Redlands, California, was arrested by ATF and local
 11 police for dealing firearms without a license. He sold five ghost gun rifles to an
 12 informant that openly claimed he was a felon and that he intended to take the guns
 13 to Mexico.
- 14 n. **May 2017.** Paul Holdy, of La Jolla, California, was indicted for federal gun and
 15 narcotics crimes, including selling ghost guns.
- 16 o. **November 2017.** Kevin Neal of Rancho Tehama, California, used a ghost gun to
 17 kill his wife and four other people, and wound ten more. He was shot and killed in
 18 a stand-off with local law-enforcement officers. Neal had been served with a
 19 restraining order and had no known firearms in the California Department of
 20 Justice Automated Firearms System. At the time of the spree, he was on bail
 21 pending trial for crimes including two felonies.
- 22 p. **February 2018.** A federal court sentenced David Guevara-Pimentel for firearms
 23 crimes, including selling ghost guns in 2014 and 2015.
- 24 q. **March 2018.** Axel Galvez was sentenced for federal firearms violations. Galvez
 25 manufactured ghost guns at a South Los Angeles machine shop where he worked.
 26 He sold five assault rifles to an undercover agent, whom Galvez believed was a
 27 convicted felon. In discussions with the undercover agent, Galvez negotiated the
 28 sale of another 100 homemade assault rifles, offering a bulk discount.

- r. **June 2018.** BOF Agents, working with ATF agents and local police, seized ghost guns and ghost-gun components from the residence of a convicted felon.
- s. **June 2018.** Joe Darwish ambushed two San Diego police officers using a ghost-gun AR-15-style rifle and two polymer-based ghost-gun pistols. Darwish wounded both officers, who survived. He was killed in the confrontation. At the time, Darwish, who had a history of violence, criminal convictions, and mental-health problems, was prohibited from possessing a firearm.
- t. **July 2018.** ATF agents and LAPD officers seized more than 45 ghost guns from a Los Angeles-based gang and arrested several of its members. The gang was manufacturing and selling ghost-gun pistols and AR-15-style assault rifles. At a press conference following the arrests and seizure, ATF Special Agent in Charge Bill McMullan said “[s]earch warrants at the end of the investigation resulted in the seizing of firearms manufacturing tools and materials used to build AR-style rifles and pistols from unfinished lower receiver kits. This is a common trend ATF is seeing in SoCal amongst gangs. Criminals building their own guns since they are prohibited from buying guns legally.”

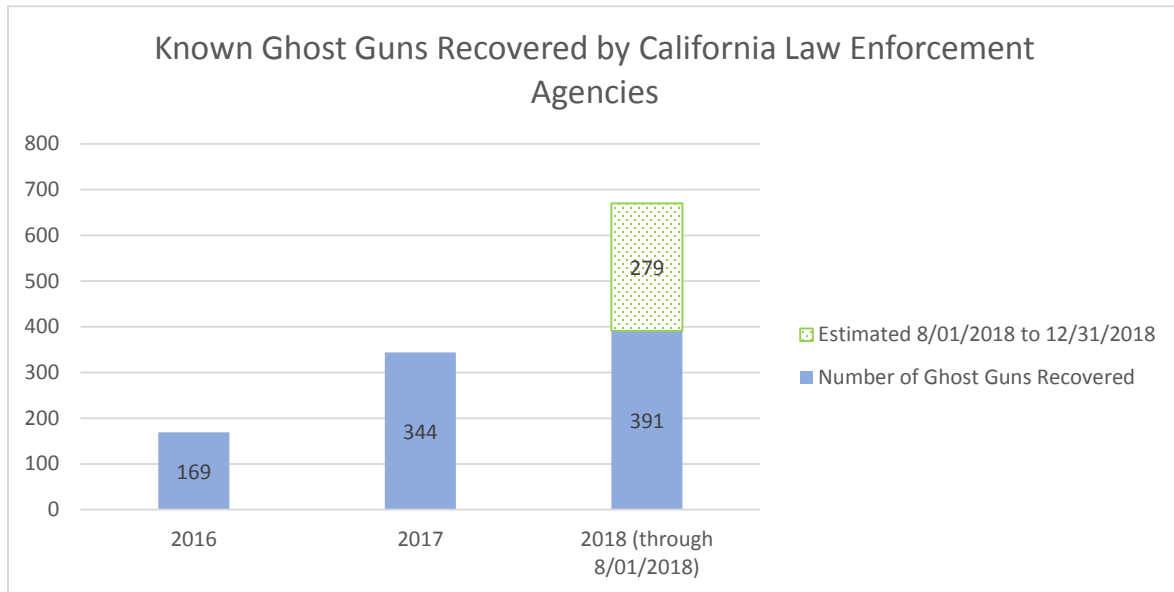
26. In addition to keeping track of reports of ghost gun crimes in California, I have access to data showing local law-enforcement encounters with ghost guns. Under California law, local law-enforcement agencies are required to submit descriptions of “serialized property” to the California Department of Justice. Cal. Penal Code § 11108(a). In the case of firearms, that information is submitted into a database called the Automated Firearms System (AFS). *See id.* § 11108(b). California law gives local law-enforcement agencies the discretion to report “all available information necessary to identify and trace the history of all recovered firearms that are illegally possessed, have been used in a crime, or are suspected of having been used in a crime.” *Id.* § 11108.3(a). BOF oversees the AFS and provides guidance and assistance to local law-enforcement agencies on submitting information into the system.

27. As noted above, ghost guns do not have serial numbers. Many local law-enforcement agencies, however, attempt to report un-serialized firearms. (These firearms may include, for

1 example, guns manufactured before 1968, when federal law started requiring that new firearms
2 bear serial numbers.) In 2015, BOF started to receive enough reports of ghost guns, and inquiries
3 on how to report them, that it developed a way to code them in AFS. As a result, the AFS
4 provides a source of data on ghost guns recovered by local law-enforcement agencies in
5 California. This data is not complete and does not represent a comprehensive source for all ghost
6 guns encountered by law enforcement in the State. It also does not include ghost guns recovered
7 by federal agencies. It does not include pre-1968 firearms manufactured by Federal Firearms
8 Licensees such as un-serialized long guns, since they were not manufactured by unlicensed
9 subjects. And not all local law-enforcement agencies may choose to report a ghost gun into the
10 AFS.

11 28. As part of my preparation of this declaration, I have reviewed the AFS for available
12 data on ghost guns, which are coded in the system by BOF with serial numbers beginning with
13 "FMBUS," or firearm manufactured by unlicensed subject. A series of numbers will follow each
14 FMBUS type serial number. These FMBUS identifiers do not repeat and are unique to one
15 weapon. The first entry occurs on December 9, 2015, when BOF started using the code. From
16 that date to the end of 2015, the system lists 26 guns. The system lists 169 guns for 2016, 344
17 guns for 2017, and 391 guns for 2018 through August 1, 2018. Assuming the remaining five
18 months of 2018 result in as many ghost-gun entries as the first seven months of the year, I
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anticipate approximately 670 entries by December 31. These numbers—excluding the few weeks in 2015 for which data exists—are reproduced in the following chart:



29. As noted above, this data does not include ghost guns seized by federal authorities, and several local law-enforcement agencies may not be reporting, or may not have reported, the seizure of ghost guns in the years listed above. These limitations mean that it is theoretically possible that the increase in reports from 2016 through this year is attributable to a growing awareness among local law-enforcement that they can report ghost guns in the AFS, rather than an increase in the prevalence of ghost guns in California, but I believe that this is unlikely. The more likely explanation for the data, based on my personal knowledge and experience, is that ghost guns are becoming more common. I see this in my own investigations, and I hear it from the federal and local law-enforcement agencies I work with. In fact, I believe these numbers understate the prevalence of ghost-gun crime in California.

30. The numbers also correspond to another disturbing trend: an increase in prohibited persons who possess ghost guns. BOF conducts investigations at California gun shows to enforce firearms laws. During recent gun-show investigations in Sacramento and Solano Counties, BOF Special Agents have encountered multiple felons purchasing kits to build ghost guns. BOF Sacramento Special Agents have arrested three subjects to date, and the criminal cases are

1 ongoing for these individuals. One of the most common problems we see at these gun shows are
 2 the ghost-gun kits being sold to anyone with enough money. No background checks are being
 3 conducted for the unfinished receivers or frames.

4 31. BOF also conducts investigations of persons who once lawfully purchased firearms
 5 and later became firearms prohibited. The database that contains the personal information of
 6 these subjects is called the Armed Prohibited Persons System or APPS. The APPS has been used
 7 by BOF since 2006. There are currently more than 9,000 active subjects in the system. BOF
 8 Special Agents work each week to recover firearms from the subjects in the database, but each
 9 week more are added. Some of the subjects that BOF Special Agents contact looking for
 10 serialized firearms also have un-serialized ghost guns as well. Since December of 2015, BOF
 11 Agents have seized at least 63 ghost guns from 23 subjects identified by APPS. In 2015, they
 12 seized 2 ghost guns; in 2016, they seized 18; in 2017, they seized 1; and to date, in 2018, they
 13 have seized 42.

14 **III. The Widespread Availability of Computer Files that Allow for the Easy Manufacture** 15 **of Ghost Guns Poses a Threat to California Firearms Laws and Californians**

16 32. Ghost guns pose a public-safety issue because they allow people to circumvent
 17 California's laws governing the purchase and sale of firearms. The example in paragraph 25.c
 18 above helps show the scope of the problem. In that case, a non-licensed store in San Diego sold
 19 AR-15 polymer receivers to more than 5,000 customers. That means that potentially more than
 20 5,000 people were able to obtain AR-15-style guns without going through a licensed firearms
 21 dealer and without a background check or cooling-off period. Cal. Penal Code § 26815, 27540.
 22 If any of those guns are used in a violent crime, it will be exceedingly difficult, if not impossible,
 23 to track them back to their source. They also were not entered into the AFS, meaning if law
 24 enforcement officers execute a search or arrest warrant on one of those 5,000 or more customers
 25 in the future, those officers will not know that they may have an AR-15-style firearm at their
 26 disposal.

27 33. As a law-enforcement officer, my most significant concern is with these firearms
 28 falling in the hands of prohibited persons who will use them in violent crimes. California has

1 already witnessed a prohibited person use polymer-based ghost guns to attack police officers
 2 (§ 25.t). It has also witnessed multiple mass shootings by people who could not have purchased
 3 the ghost guns they used from a licensed firearms dealer (§§ 25.a and 25.o). And I believe the
 4 2014 case of the three Norteño gang members, described above in paragraph 25.e, would have
 5 been more deadly if they had three AK-47-style ghost guns instead of just one.

6 34. 3D printed guns have the potential to pose an even greater threat. 3D printing of
 7 firearms and later assembly of them can take at least two paths. First, a 3D printer can be used to
 8 manufacture multiple plastic pieces of a firearm. Those pieces would then need to be assembled
 9 to make a working firearm. (Although federal law requires 3D printed guns to have a 3.7 ounce
 10 piece of stainless steel embedded in the frame, this requirement can easily be ignored.) This kind
 11 of production would probably have a limited lifespan—given the current state of the
 12 technology—due to breakage issues, but it is still a viable threat. A second possible use for 3D
 13 printers would be to print out just a frame or receiver of a firearm and then assemble a working
 14 weapon from commercially available and uncontrolled firearms parts (using a metal barrel for
 15 example).

16 35. 3D printers can make the process for obtaining a ghost gun much simpler. Instead of
 17 going through a middleman, like the Cortez-Garcia family (§§ 21, 25.b) or Dr. Death (§§ 22,
 18 25.d), firearms-prohibited persons and those persons who do not wish the government to be aware
 19 of their firearms ownership will have an additional method to make guns on their own. This will
 20 make ghost guns harder to keep off the streets, because law enforcement will not be able to
 21 monitor them through gun stores and gun shows.

22 36. Concerns about ghost guns prompted the California Legislature to pass Assembly Bill
 23 857 in 2016, which requires persons already in possession of ghost guns to report them to BOF,
 24 seek a BOF-issued serial number, apply the number to the firearm and then report back to BOF
 25 that the firearm has been serialized. Cal. Penal Code §§ 29180-84. Additionally, the law requires
 26 that after July 1, 2018, if a person wants to manufacture a firearm for themselves, they must pass
 27 a background check before BOF will issue them a serial number to be applied to their firearm.
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1 37. I do not anticipate that prohibited persons will follow the California ghost-gun
2 serialization law and report existing ghost guns or request a serial number from BOF before
3 building a ghost gun in the future, because it is a crime for a prohibited person to possess or
4 manufacture a firearm.

5 38. I am aware that the federal government entered into a settlement agreement with a
6 company known as Defense Distributed in a case captioned *Defense Distributed v. U.S. Dep't of*
7 *State*, No. 15-cv-372 RP (W.D. Tex.). I understand that, in the settlement agreement, the federal
8 government committed to taking steps to change federal laws that prohibited Defense Distributed
9 from posting CAD files online and that those changes will increase the accessibility of 3D guns.
10 Wider availability of 3D printed guns would impair BOF's ability to implement California's
11 firearms safety laws. As a result, prohibited persons and violent criminals will have greater
12 access to firearms, including AR-15 style guns and potentially some guns that cannot be detected
13 by metal detectors, increasing the risk that more Californians will be injured or killed.

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15 In compliance with 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true
16 and correct.

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18 Executed on: August 8th, 2018

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21 BLAKE GRAHAM

The Honorable Robert S. Lasnik

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

STATE OF WASHINGTON, et al.

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
STATE, et al.,

Defendants.

NO. 2:18-cv-01115-RSL

DECLARATION OF JOHN S. CAMPER

I, John S. Camper, declare as follows:

1. I am over the age of 18 and have personal knowledge of all the facts stated herein.
2. I am the Director of the Colorado Bureau of Investigation ("CBI"). I have held this position since January 2, 2018. I am the chief administrative officer of the CBI and an agent. I supervise and direct the administration and all other activities of the CBI.
3. For the reasons outlined below, the Temporary Modification of Category I of the United States Munitions List ("Temporary Modification") will undermine Colorado's efforts to prevent the proliferation of dangerous weapons, allow individuals ineligible to

DECLARATION OF JOHN S. CAMPER

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1 possess firearms under state or federal law to easily obtain them without a background check,
2 and hinder law enforcement's ability to investigate criminal activity involving firearms,.

3 4. Colorado law prohibits several categories of individuals from possessing
4 firearms. In addition to restrictions imposed by federal law, *see* 18 U.S.C. § 922(g) and (n),
5 those under the age of eighteen are generally prohibited from possessing handguns, Colo. Rev.
6 Stat. § 18-12-108.5(1)(a), and certain previous offenders are generally barred from firearm
7 possession altogether. Colo. Rev. Stat. § 18-12-108(1). Individuals subject to civil protection
8 orders may not possess or attempt to purchase or receive a firearm while the protection order is
9 in effect, Colo. Rev. Stat. § 18-6-803.5(1)(c), and must generally surrender any firearms in
10 their possession within 24 hours of being served with a qualifying order. Colo. Rev. Stat. § 18-
11 1-1001(9).

12 5. Pursuant to Colo. Rev. Stat. § 24-33.5-424(2), the CBI serves as the state point
13 of contact for implementation of 18 U.S.C. § 922(t), all federal regulations and applicable
14 guidelines adopted pursuant thereto, and the NICS system. The CBI is responsible for
15 conducting nearly universal background checks related to the transfer of a firearm, including
16 private transfers and transfers at gun shows utilizing ATF Form 4473, which mandates the
17 inclusion of the firearm's serial number.

18 6. The Temporary Modification undermines CBI's ability to ensure Colorado's
19 compliance with these mandates. 3D printed firearms can be printed and possessed by anyone
20 with suitable equipment regardless of eligibility to possess firearms under federal or state law.
21 Because home-printed 3D firearms never enter the stream of commerce through a Federal
22 Firearms Licensee ("FFL"), no background check is ever performed. The CBI thus cannot
23 verify that an individual who has home-printed a firearm is legally entitled to possess it.
24

1 7. Nor is ensuring the eligibility of firearm owners the only problem. Because
2 they are made primarily of composites, 3D printed firearms can be used to evade security
3 measures such as magnetometers in place throughout public facilities in Colorado, including
4 airports, courthouses, music and sporting venues, and governmental offices, thereby
5 jeopardizing private citizens and law enforcement

6 8. Proliferation of 3D-printed firearms will also hamper law enforcement's ability
7 to investigate crimes. For example, the CBI relies upon manufacturing data, including the
8 serial number, of firearms used in crime as part of its criminal investigative duties. Because
9 3D printed firearms lack this information, the chain of ownership is essentially untraceable.

10 9. The CBI performs forensic laboratory analysis for Colorado law enforcement
11 agencies, including firearms analysis. § 24-33.5-402(1)(c), C.R.S. Data from recent analyses
12 establish that the unique characteristics of 3D printed firearms render many existing forensic
13 techniques ineffective.

14 10. In 2017, the CBI participated in research on forensic testing of 3D printed
15 firearms. CBI analysts, working in concert with a private laboratory, printed five 3D firearms
16 from open-source plans similar to those offered by Defense Distributed, and applied standard
17 forensic techniques to those firearms after they were fired. The five 3D firearms tested were

- 18 • Repringer .22 Long Rifle caliber derringer
- 19 • Grizzly .22 Long Rifle caliber pistol
- 20 • Liberator .380 Auto caliber pistol
- 21 • Pepperbox Liberator .380 auto revolver
- 22 • Washbear .22 Long Rifle caliber revolver

1 I declare under penalty of perjury under the laws of the State of Washington and the
2 United States of America that the foregoing is true and correct.

3 DATED this 8th day of August, 2018, at Lakewood, Colorado.

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5 s/ John S. Camper
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THE HONORABLE ROBERT S. LASNIK

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

STATE OF WASHINGTON, et al.

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
STATE; MICHAEL R. POMPEO, in his
official capacity as Secretary of State;
DIRECTORATE OF DEFENSE TRADE
CONTROLS; MIKE MILLER, in his official
capacity as Acting Deputy Assistant Secretary
of Defense Trade Controls; and SARAH
HEIDEMA, in her official capacity as Director
of Policy, Office of Defense Trade Controls
Policy; DEFENSE DISTRIBUTED; SECOND
AMENDMENT FOUNDATION, INC.; and
CONN WILLIAMSON

Defendants.

NO. 2:18-cv-01115-RSL

DECLARATION OF
ROBERT HERZOG
IN SUPPORT OF PLAINTIFF'S
MOTION FOR PRELIMINARY
INJUNCTION

Noting Date: August 10, 2018

I, ROBERT HERZOG, declare as follows:

1. I am over the age of 18 and have personal knowledge of all the facts stated herein.

2. The Washington State Department of Corrections (DOC or Department) houses
approximately 19,500 incarcerated individuals in 12 prisons and 13 work release facilities across

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1 the state. DOC also supervises over 19,000 individuals in the community pursuant to community
 2 custody terms ordered by sentencing courts. I began with the Washington State Department of
 3 Corrections in April 1982. In my 36-year career with the Department, I have served in many
 4 capacities, including 19 years as uniformed custody staff, where I was tasked with maintaining
 5 the safety and security of prisoners, staff, and visitors. I also have served as an Associate
 6 Superintendent, Deputy Superintendent, and Superintendent of several DOC facilities, including
 7 the Monroe Correctional Complex, one of the state's largest prisons. In 2015, I became a Deputy
 8 Director of Prisons, with oversight of half of the state's correctional facilities, along with
 9 responsibility for our Intelligence and Investigations Units and all restricted housing operations
 10 (secure housing placements for dangerous individuals). In April 2017, DOC Secretary Stephen
 11 Sinclair appointed me Assistant Secretary for Prisons, a position I hold today. As Assistant
 12 Secretary, I am responsible for the overall leadership, direction, oversight, and safety and
 13 security of all Washington prisons. I also serve on the Secretary's Executive Strategy Team, and
 14 in that capacity frequently interact with leaders of other divisions within the Department on
 15 matters of importance to the operation of the state's correctional system.

16 3. The Department's mission is to improve public safety. We do this by safely and
 17 humanely incarcerating individuals sentenced to prison terms by the courts, by providing
 18 education and other reentry-focused programming during incarceration, and by providing
 19 community supervision and support to high-risk individuals sentenced to community custody
 20 following release from confinement. Critical to achieving this mission is maintaining safety and
 21 security within the Department's prisons and work release facilities.

22 4. While most incarcerated individuals serve their sentences without incident, DOC
 23 houses the state's most violent convicted felons, who committed horrific crimes in the
 24

1 community and can continue to act out violently in prison when given the opportunity. The
 2 Department, therefore, has strict policies and procedures designed to limit the items that may be
 3 brought into correctional facilities, to avoid the introduction of weapons and other contraband.
 4 This includes the use of walk-through and hand-held metal detectors for visitors and x-ray
 5 scanning of all incoming packages and hand-carried items. Unfortunately, despite the
 6 Department's vigilance, some contraband evades screening and detection and makes it into the
 7 facilities. The Department continually discovers new methods of introducing serious contraband
 8 into facilities, with contraband disguised or hidden by various means.

9 5. A few examples of these methods may help illustrate the challenge: cell
 10 phones are dismantled to avoid obvious visual detection and sent to incarcerated individuals
 11 in packages with authorized items; visitors have worn the same shoes as those provided to
 12 incarcerated persons—shoes packed with contraband—and the shoes are swapped under the
 13 visiting table; incoming letters and envelopes are soaked in methamphetamine; strips of
 14 suboxone are hidden behind stamps, flaps of envelopes, or hidden among pages of fake
 15 incoming legal mail; hand-fashioned edged weapons are discovered hidden in many places,
 16 including most recently in an incarcerated person's body cavity; and most notably, over the
 17 past two years visual and electronic searches of incoming hand carried items resulted in the
 18 discovery of 12 loaded firearms that otherwise would have made it into the secure perimeter
 19 of the prisons.

20 6. Prisons employees rely upon their experience and knowledge of the various
 21 types of contraband to aid in their visual and electronic methods of discovery. As new ways
 22 are designed to disguise contraband, or new designs of common items that previously would
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1 have been be easy to identify and detect, discovery becomes much more challenging and the
2 risk significantly increases.

3 7. It is a crime to bring a firearm onto prison grounds. Wash. Rev. Code §
4 9.41.300. Contraband in the form of firearms would present an extreme risk to institutional
5 safety and security. The Department successfully mitigates this risk through scanners and
6 other equipment designed to detect metal weapons. The existence of 3-D printed plastic
7 firearms, weapons that are undetectable using metal detectors, would fundamentally
8 undermine our ability to maintain safe and secure correctional facilities. The challenge
9 presented by these weapons would be particularly difficult because they evidently are
10 assembled from separately "printed" pieces that would not necessarily be recognizable could
11 therefore be smuggled into facilities, or otherwise passed to individuals on escorted leave or
12 work crews in the community, in ways that are not necessarily detectable. Community work
13 crews comprised of incarcerated individuals often attempt to smuggle contraband back into
14 our prisons. Persons not incarcerated can know the locations where our crews work and hide
15 contraband for work crew members. Often this contraband is either swallowed or inserted
16 into a body cavity to aid in the introduction into the prison.

17 8. The safety risks presented by 3-D printed firearms are not limited to prisons
18 and work release facilities. As noted, DOC supervises over 19,000 individuals in the
19 community. DOC Community Corrections Officers (CCOs) do this work, which can be
20 dangerous. CCOs are limited authority peace officers and have arrest authority. They enforce
21 conditions of community custody imposed by the court and by the Department, including the
22 statutorily mandated prohibition that felons not possess firearms. Although other law
23 enforcement agencies can speak more generally about the public safety risk of undetectable
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1 and untraceable 3-D printed weapons, it is difficult to overstate the danger they would
2 present in the hands of high risk, violent felons DOC CCOs are responsible for supervising
3 in the community.

4 9. In summary, the Washington Department of Corrections is gravely concerned
5 that the existence and availability of 3-D printed firearms would substantially undermine its
6 ability to protect the public. Plastic firearms would be difficult to detect when smuggled into
7 prisons and work release facilities, and once inside, could be used to harm or kill staff,
8 visitors, and incarcerated individuals, and aid in the escape of incarcerated persons.
9 Additionally, the availability of 3-D printed firearms to felons on community custody would
10 present an unacceptable risk of harm to CCOs and the public.

11 I declare under penalty of perjury under the laws of the State of Washington and the
12 United States of America that the foregoing is true and correct.

13 DATED this 3 day of August 2018, at Tumwater, Washington.

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17 ROBERT HERZOG
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The Honorable Robert S. Lasnik

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

STATE OF WASHINGTON, et al.

NO. 2:18-cv-01115-RSL

Plaintiffs,

DECLARATION OF
MARY B. McCORD

v.

UNITED STATES DEPARTMENT OF
STATE, et al.,

Defendants.

I, Mary B. McCord, pursuant to 28 U.S.C. § 1746, hereby declare and say as follows:

1. I am over the age of 18 and have personal knowledge of all the facts stated in this declaration.

2. I am currently a Senior Litigator and Visiting Professor of Law at the Institute for Constitutional Advocacy and Protection at Georgetown University Law Center in Washington, D.C. I have held this position since July 1, 2017. In this position, I have represented cities, businesses, and individuals in lawsuits raising a variety of constitutional and statutory issues. I have also authored or co-authored several amicus briefs on behalf of current and former federal, state, and local prosecutors and law enforcement officials, and have co-authored letters to government officials on behalf of former national security officials.

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1 3. Prior to holding my current position, I was the Acting Assistant Attorney
2 General for National Security at the Department of Justice from October 2016 through mid-
3 May 2017, and the Principal Deputy Assistant Attorney General for National Security at the
4 Department of Justice from May 2014 through October 2016. In those roles, I oversaw all
5 federal counterterrorism, espionage, and export-control prosecutions. These included
6 prosecutions of terrorists brought to the United States from abroad for terrorist acts committed
7 overseas, as well as prosecutions of terrorism-related offenses committed within the United
8 States. It also included prosecution of cases arising from violations of the Arms Export Control
9 Act (AECA), 22 U.S.C. § 2751 *et seq.*, and the International Trafficking in Arms Regulations
10 (ITAR), 22 C.F.R. §§ 120-130. In addition, my responsibilities included representing the
11 Department of Justice at interagency policy meetings, including Deputies Committee
12 meetings, held by the National Security Staff of the Executive Office of the President, on a full
13 range of national security issues including counterterrorism policy, terrorist threats to aviation,
14 border security, export control policy, arms control policy, intelligence collection, cyber threats
15 to national security, and foreign attempts to influence the U.S. elections, among others. My
16 work put me in close contact with officials from all of the national security departments and
17 agencies, including the Departments of Defense, Homeland Security, State, and the Treasury,
18 and the intelligence community, among others.

17 4. Prior to my position in the National Security Division at the Department of
18 Justice, I was an Assistant United States Attorney (AUSA) for the District of Columbia from
19 October 1994 to May 2001 and July 2002 through May 2014. During my tenure as an AUSA,
20 in addition to prosecuting at trial and litigating on appeal in cases arising under federal and
21 District of Columbia criminal law, I served as a Deputy Chief of the Sex Offense Section for
22 one year, Deputy Chief of the Appellate Division for six years, and Chief of the Criminal
23 Division for two years. As Chief of the Criminal Division, I supervised all federal violent and
24 organized crime prosecutions, including narcotics and gun trafficking; all federal white collar
25 offenses; and all prosecutions of federal national security offenses (in conjunction with the

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1 officials at the National Security Division of the Department of Justice). My work put me in
 2 close contact with law enforcement officials at the Federal Bureau of Investigation, the Bureau
 3 of Alcohol, Tobacco, Firearms, and Explosives, and the Department of Homeland Security,
 4 among others.

5 5. This declaration is submitted in support of the request for an injunction filed by
 6 the States of Washington, California, Connecticut, Colorado, Delaware, Hawaii, Illinois, Iowa,
 7 Maryland, Minnesota, New Jersey, New York, North Carolina, Oregon, Rhode Island,
 8 Vermont, the Commonwealths of Virginia, Massachusetts, and Pennsylvania, and the District
 of Columbia ("plaintiff States").

9 6. I have considered the likely impacts of an unrestricted export of Defense
 10 Distributed's Computer Aided Design (CAD) files to any interested person, entity, or foreign
 11 power, and have concluded that its likely effect would be detrimental to the national security,
 12 foreign relations, and public safety interests of the United States and the plaintiff States.

13 **Unrestricted Export Would Threaten To Defeat Existing Security Protocols on
 Which Public Safety Depends**

14 7. A plastic firearm that is both fully operable and virtually undetectable by
 15 conventional security measures would threaten to defeat existing security protocols on which
 16 public safety depends. Such a device would rarely, if ever, be detected by metal detectors,
 17 which form the backbone of well-developed protocols used across the United States and around
 the world for public safety.

18 8. Metal detectors stand between those carrying firearms and boarding airplanes,
 19 entering packed stadiums and arenas, attending concerts, visiting courthouses and other
 20 government buildings, and—increasingly—going to school.

21 9. A plastic firearm, including a 3D-printed plastic firearm, would evade this well-
 22 honed system because there would be no current-conducting metal on which the detector would
 23 alert.
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1 10. Although the federal Undetectable Firearms Act, 18 U.S.C. § 922(p), requires
2 firearms to include enough metal to be detectable by a walk-through metal detector, this
3 requirement easily could be evaded by bad actors who seek to smuggle 3D-printed plastic
4 firearms through such metal detectors. For example, it is my understanding that the Defense
5 Distributed CAD files for the “Liberator” 3D-printed plastic firearm include the insertion of a
6 six-ounce piece of metal to comply with this requirement, but that the metal piece can be
7 removed without rendering the firearm inoperable.

8 11. Although most firearms ammunition should be detectable by metal detectors,
9 depending on the sensitivity and calibration of the equipment used, a single bullet might be
10 undetectable.

11 12. The law enforcement and national security community, of which I was a part
12 for more than 20 years, has consistently expressed concerns about the development of plastic
13 weapons—whether firearms or improvised explosive devices—that can evade detection by
14 metal detectors.

15 13. Allowing widespread private manufacture and access to operable 3D-printed
16 plastic firearms would seriously undermine the utility of one of the primary currently available
17 forms of protection for sensitive and/or crowded sites nationwide and worldwide.

18 **Unrestricted Export Would Pose Serious National Security Risks**

19 14. The export of CAD files for the manufacturing of 3D-printed plastic firearms
20 means that the files will be available not only to U.S. persons (U.S. citizens and Lawful
21 Permanent Residents (LPRs)), but also to foreign persons both inside and outside of the United
22 States. *See* 22 CFR § 120.17 (defining “export” for purposes of ITAR to include
23 “transmission” of technical data “out of the United States in any manner” and “releasing or
24 otherwise transferring technical data to a foreign person in the United States”).

 15. Unrestricted export of these CAD files means that bad actors, including
members of foreign terrorist organizations and those inspired by them, both inside and outside

1 of the United States, would be able to make undetectable and untraceable firearms that could
2 be used to inflict harm on persons residing in or visiting the State of Washington and other
3 plaintiff States.

4 16. Foreign terrorist organizations like al-Qa'ida and ISIS have long encouraged
5 the use of firearms to commit acts of terrorism on U.S. soil in the name of those groups. Such
6 terrorist organizations call on individuals to cause as much bloodshed as possible in the hope
7 of spreading fear, gaining notoriety, and attracting additional followers. Individuals such as
8 Omar Mateen, the shooter at Orlando's Pulse Nightclub who killed 49 people, and Syed Farook
9 and Tashfeen Malik, the shooters at a county government training event in San Bernardino,
California, who killed 14, have, regrettably, answered that call.

10 17. Thus far, those in the United States who have been susceptible to terrorists' call
11 to violence have in some instances been limited in the bloodshed that they are able to cause
12 with firearms. That appears due, at least in part, to the security protocols, and in particular the
13 metal detectors, that hinder them from being able to bring firearms into crowded, heavily-
14 attended places. Would-be terrorists know that they currently would likely fail if they tried to
15 enter, for example, Seattle's CenturyLink Field with a metal firearm, due to the stadium's use
of walk-through metal detectors.

16 18. With the unrestricted export of files facilitating the private manufacture of 3D-
17 printed plastic firearms, the 72,000 fans who pack CenturyLink for a Seahawks game suddenly
18 would become much more vulnerable to terrorists who seek to cause as much bloodshed as
19 possible. The ability to bring firearms undetected to public spaces and then open fire as widely
20 and indiscriminately as possible is a longstanding tactical objective for groups such as al-
Qa'ida and ISIS.

21 19. With the availability of the CAD files for the manufacturing of 3D-printed
22 plastic firearms, members of foreign terrorist organizations abroad, and those inspired by them,
23 may travel to the United States for the purpose of making such weapons and using them to
24 commit a terrorist attack in one of the plaintiff States. In addition, members of foreign terrorist

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1 organizations outside the United States, and those inspired by them, may manufacture 3D-
2 printed plastic firearms abroad and attempt to smuggle them into the United States, whether
3 by land, air, or sea. These plastic firearms would prove more difficult to detect than
4 conventional metal firearms, depending on the screening systems used at the various entry
5 points.

6 20. In addition, in my experience, foreign terrorist organizations have made a
7 priority of targeting commercial aviation and aggressively pursue innovative methods to
8 undertake attacks, including by smuggling undetectable explosives onto commercial airplanes.
9 The availability of the CAD files for manufacturing 3D-printed plastic firearms increases the
10 risk that members of foreign terrorist organizations and those inspired by them will
11 successfully be able to bring such weapons onto a commercial airplane bound for the United
12 States. Even if foreign airports that are the last points of departure for the United States utilize
13 security screening devices such as millimeter wave imaging technology, designed to detect
14 metallic and non-metallic items, vulnerabilities in those systems and the persons who operate
15 them increase the risk of 3D-printed plastic firearms being used to commit an in-air attack,
16 including a hijacking. They also increase the risk that 3D-printed plastic firearms made abroad
17 could be transported in the checked baggage of passenger planes or on cargo planes bound for
18 the United States, for use in a possible terrorist attack in one of the plaintiff States.

19 21. In addition to the above, metal detectors represent the principal means of
20 protecting prominent federal, state, and local officials in their frequent public appearances.
21 One goes through a metal detector before entering the White House, the Supreme Court, and
22 the Capitol in Washington D.C., as well as iconic buildings in many state capitals—and even
23 at many campaign events and rallies for candidates not yet elected to public office.

24 22. There are numerous foreign adversaries intent on causing chaos and confusion
in the United States. Increasing the ability to bypass existing security protocols with an
undetectable firearm would provide an assassination option for hostile foreign actors that is
currently much more difficult, and thus presents a serious national security risk.

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1 **Unrestricted Export Would Harm Foreign Relations**

2 23. The United States and other countries rely on international arms embargoes,
3 export controls, and other measures to restrict the availability of defense articles, including
4 firearms, sought by foreign terrorist organizations. Unrestricted access to the CAD files for
5 manufacturing 3D plastic firearms would allow these organizations and those inspired by them
6 to readily manufacture and use such weapons in foreign countries, harming U.S. foreign
7 relations with those countries.

8 24. Wide international access to the CAD files would likewise provide armed
9 insurgent groups, transnational criminal organizations, and foreign countries subject to U.S. or
10 U.N. arms embargoes (such as North Korea and Iran) with technology allowing for the ready
11 manufacture of 3D-printed plastic firearms and components. This would undermine global
12 export control and non-proliferation regimes designed to prevent the dangerous spread and
13 accumulation of weapons and related technologies, damaging U.S. leadership in this area.

14 25. Even if IP addresses located in hostile foreign countries such as North Korea
15 and Iran were blocked by Defense Distributed from accessing the CAD files, there are multiple
16 ways to defeat an IP block, including through the use of proxies and virtual private networks.

17 26. Easy internet access to the CAD files also could contribute to increased armed
18 conflict and crime in countries with which the United States seeks to maintain good relations,
19 causing destabilizing effects on economies and societies. Such destabilization would
20 negatively impact U.S. foreign relations with those countries and could result in damage to the
21 economies of the plaintiff States and their citizens who have family members and business
22 interests in those countries.

23 27. If the CAD computer files were used to assemble an undetectable 3D-printed
24 plastic firearm in a foreign country, and that weapon were then used to commit an act of
terrorism, piracy, or other serious crime, this sequence of events, and the foreign country's
likely interest in holding the United States accountable, could cause very serious and lasting
harm to the foreign relations interests of the United States.

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1 28. That risk is particularly great because many foreign countries, including critical
2 allies like Canada, the United Kingdom, and Japan, have more restrictive firearms laws than
3 those in the United States. Unrestricted export of the CAD files for use in manufacturing 3D-
4 printed firearms would undercut the domestic laws of those countries and increase the risk of
5 violence there, thereby damaging U.S. foreign relations with those countries.

6 **Unrestricted Export Would Undermine Law Enforcement's Ability to Investigate
and Solve Crimes Committed with Firearms**

7 29. The ready availability of the CAD files would mean that 3D-printed plastic
8 firearms may be privately manufactured and put into the marketplace with no serial numbers,
9 making them untraceable by law enforcement, which would seriously impede the ability to
10 investigate and solve crimes committed with firearms.

11 30. Under federal law, all firearms manufactured for commercial sale in the United
12 States are required to bear a serial number which, along with other required markings on the
13 firearm, generally allow it to be uniquely identified. When a law enforcement agency recovers
14 a firearm, it can submit the serial number and other identifying details to the Bureau of Alcohol,
15 Tobacco, Firearms, and Explosives (ATF) to "trace" the gun to the federal firearm licensee
16 who made the first retail sale of the firearm, thus leading to the identity of the first retail
purchaser of the firearm.

17 31. In individual cases, a successful firearms trace can lead to the perpetrator of a
18 crime or to a person who may have relevant information about a particular crime. In my
19 experience as a federal prosecutor, firearms trace information frequently led to information
20 relevant to solving violent crimes, including by revealing "straw" purchasers, or those who
purchased a gun for someone legally prohibited from buying or possessing a firearm.

21 32. Firearms trace information can also be helpful in discerning meaningful
22 patterns in gun trafficking, for example, by identifying gun buyers who are responsible for
23 purchasing a disproportionate share of firearms recovered from crime scenes in certain areas
24

1 or gun sellers who supply a disproportionate share of firearms used in crime and may wittingly
2 or unwittingly be fueling illegal gun trafficking.

3 33. Although federal law requires all firearms manufactured for commercial sale in
4 the United States to have serial numbers, bad actors who download the CAD files for the
5 manufacture of 3D-printed plastic firearms readily can evade this requirement and produce
6 undetectable and untraceable firearms.

7 34. Law enforcement agencies in the plaintiff States that locate 3D-printed plastic
8 guns that have no serial numbers will have no information from which to seek a firearms trace
9 from the ATF, reducing their ability to solve crimes in their jurisdictions. This is so even if
10 the 3D-printed plastic gun is in compliance with the Undetectable Firearms Act.

11 35. In addition, it is my understanding that the plastic barrel of a 3D-printed plastic
12 gun does not contain grooves called “rifling” that leave unique striations on the soft outer metal
13 of bullets fired from it. This means that law enforcement agencies and prosecutors will not be
14 able to rely on forensic experts to match bullets used to commit crimes with the firearms from
15 which they were shot.

16 36. When a gun is fired and the bullet speeds down the barrel, it encounters ridges
17 and grooves that cause it to spin, increasing the accuracy of the shot. Those ridges dig into the
18 soft metal of the bullet, leaving striations. At the same time that the bullet is blasted forward,
19 the cartridge case explodes backward with equal force against the mechanism that absorbs the
20 recoil, stamping an impression into the soft metal at the base of the cartridge case, which is
21 then ejected from the gun.

22 37. When a law enforcement agency recovers bullets or cartridge cases from a
23 crime scene, forensic examiners can test-fire a suspect’s gun to see if it produces striations and
24 impressions that match the evidence. When there is a match, prosecutors may rely on a
firearms identification expert to testify that the microscopic striations and impressions left on
bullets and cartridge cases are unique, reproducible, and therefore, like “ballistic fingerprints”
that can be used to identify a gun.

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1 38. In my experience, firearms identification has produced valuable evidence to
 2 support prosecutions of violent crimes committed with firearms. Law enforcement agencies
 3 that locate bullets shot from 3D-printed plastic firearms will not be able to rely on firearms
 4 identification to prove that the bullets were shot from a suspect's 3D-printed plastic firearm,
 5 reducing the ability of law enforcement agencies in the plaintiff States to solve crimes
 6 committed with such weapons.

7 **Federal and State Laws Do Not Adequately Protect Americans from the Threat**
 8 **Posed by Plastic Guns**

9 39. Federal and state regulation of the manufacture and sale of firearms is based on
 10 the premise that commercial firearms production and distribution require an investment of
 11 resources that makes it feasible only for commercial entities, which must comply in order to
 12 maintain their licenses. The wide availability of the CAD files for the production of 3D-printed
 13 plastic handguns in the home, and the ubiquity and relative low cost of 3D printers, would up-
 14 end the entire regulatory regime.

15 40. Bad actors who seek to make or sell 3D-printed firearms for criminal purposes
 16 have no motivation to comply with federal or state firearms laws, and can easily evade them
 17 because of the ready ability to make the weapons cheaply and with minimal equipment.
 18 Although bad actors today can purchase firearms on the black market, or through straw
 19 purchasers, obtaining firearms from such illicit sources increases the costs to the purchasers,
 20 who still bear the risk that those firearms might be traced back to them by law enforcement.
 21 That risk is minimal for 3D-printed plastic firearms that contain no serial numbers and are not
 22 distributed by licensed firearms dealers. Moreover, by bypassing licensed firearms dealers,
 23 purchasers of 3D-printed plastic firearms also bypass background checks required under
 24 current federal law.

 41. Laws such as the Undetectable Firearms Act, while laudable, do little to deter
 bad actors—whether terrorists, drug dealers, or domestic abusers—from making 3D-printed
 plastic weapons such as the Liberator without the non-functional piece of metal required to

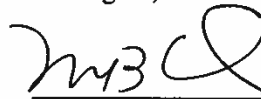
1 comply with the Act. This is especially so where the weapons will never pass through the
2 hands of a licensed firearms dealer whose livelihood depends on compliance with federal and
3 state regulations.

4 42. In my judgment, the entry of an injunction in this matter would help to prevent
5 the further dissemination of any Defense Distributed CAD files for the manufacture of 3D-
6 printed plastic firearms that may have been made available via the internet, thereby decreasing
7 the risk of harm to the national security and foreign relations interests of the United States and
8 to the public safety and law enforcement interests of the plaintiff States.

9 43. I am not receiving compensation for offering my opinion in this case. I am
10 serving pro bono because of my grave concerns about the dangers of the unchecked global
11 release of Defense Distributed's CAD files for the manufacture of 3D-printed plastic firearms.

12 I declare under penalty that the foregoing is true and correct.

13 DATED this 7th day of August, 2018, at Washington, District of Columbia.

14 

15 Mary B. McCord

The Honorable Robert S. Lasnik

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

STATE OF WASHINGTON, et al.

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
STATE; MICHAEL R. POMPEO, in his
official capacity as Secretary of State;
DIRECTORATE OF DEFENSE TRADE
CONTROLS; MIKE MILLER, in his official
capacity as Acting Deputy Assistant Secretary
of Defense Trade Controls; and SARAH
HEIDEMA, in her official capacity as Director
of Policy, Office of Defense Trade Controls
Policy; DEFENSE DISTRIBUTED; SECOND
AMENDMENT FOUNDATION, INC.; and
CONN WILLIAMSON

Defendants.

NO. 2:18-cv-01115-RSL

DECLARATION OF
BRIAN KYES

I, Brian Kyes, declare as follows:

1. I am over the age of 18 and have personal knowledge of all the facts stated herein.

DECLARATION OF BRIAN KYES

1

2:18-cv-01115-RSL

1 2. I am the Chief of Police of the Chelsea Police Department. I was originally
2 appointed as a Patrol Officer for the Chelsea Police Department in 1987 and was promoted to
3 the rank of Sergeant in 1994, Lieutenant in 1996, and Captain in 2002. I have served in my
4 current position as Chief of Police since 2007.

5 3. I serve as the President of the Massachusetts Major City Chiefs of Police
6 Association, Inc. (the "MMCC"). MMCC's members include chiefs of police from
7 approximately forty communities in Massachusetts. MMCC is committed to reducing and
8 preventing crime and has a special focus on stopping gun violence. In addition, I serve on the
9 Municipal Police Training Committee, which establishes and enforces training standards for
10 municipal police officers in the Commonwealth.

11 4. I hold a bachelor's degree from Framingham State College, a master's degree
12 from Anna Maria College, and a Juris Doctor degree from Suffolk University Law School. I
13 have also attended numerous professional development certification programs, including
14 programs with the FBI National Academy, the Naval Postgraduate School, and Harvard
15 University.

16 5. As Chief of the Police of the Chelsea Police Department, I oversee over 100
17 sworn officers.

18 6. During my career, I have investigated and supervised hundreds of cases involving
19 firearms.

20 7. Individuals who can locate Defense Distributed's computer-aided design (CAD)
21 codes and who have access to an internet connection and 3D printer are able to click and print a
22 lethal "ghost gun" that is unregulated and untraceable. The easier it is to find these codes, the
23 easier it is to print a firearm.

1 8. The plastic firearms made using 3D printers do not have serial numbers or other
2 identifiable marks and can easily be made to evade metal detectors and wands.

3 9. This development is very concerning. Serial numbers on firearms serve an
4 important public safety function. If someone uses a firearm to commit a crime, federal, state, and
5 local law enforcement agencies can access the Bureau of Alcohol, Tobacco, Firearms and
6 Explosives' National Tracing Center (the "NTC") to track the serial number to determine who
7 may have owned or possessed the firearm at the time of the crime.

8 10. Using the serial number, the NTC is able to track the movements of a firearm
9 from its manufacturer or importer through the distribution chain until it finds the gun dealer. The
10 gun dealer is required to keep a record of who purchased the gun, and with that information law
11 enforcement can attempt to locate and interview the purchaser and anyone involved in a
12 subsequent transfer.

13 11. Firearms produced using 3D printers without serial numbers are untraceable
14 under current systems. These "ghost guns" are off-the-grid and will evade government oversight.
15 It will be difficult, if not impossible, to determine who manufactured, purchased, or owned any
16 such firearm used to commit a crime.

17 12. Approximately half of the firearms recovered by the Chelsea Police Department
18 during investigations already have obliterated serial numbers. When the serial number is fully
19 obliterated, a successful trace through the NTC is not possible. Police departments in
20 Massachusetts's other major cities face similar challenges.

21 13. The proliferation of unregulated and untraceable firearms significantly hampers
22 law enforcement's ability to stop and apprehend individuals involved in acts of violence
23 committed with firearms. The Chelsea Police Department and others around Massachusetts trace
24

1 thousands of firearms every year. These traces are a critical tool to help solve crimes and prevent
2 future gun violence.

3 14. Police in Massachusetts further rely on the results of gun traces to identify ways
4 in which firearms enter the illegal market, and to inform strategies to combat the illegal
5 trafficking of firearms.

6 15. If there is a sudden increase in the number of untraceable guns, more crimes will
7 go unsolved and bad actors will be emboldened to commit more crimes and acts of violence.

8 16. Firearms made using 3D printers present additional challenges for security.
9 Because these guns are made from plastic, some are capable of evading metal detectors and
10 wands. For example, the "Liberator" firearm included in Defense Distributed's CAD files
11 presents a unique public safety risk, because it is operable and can be undetectable.

12 17. Any type of weapon that can fire a bullet and is built specifically to evade security
13 is hugely problematic. These types of 3D-printed firearms endanger the public in venues that
14 rely on metal detectors and wands, such as arenas, schools, airports, and courthouses.

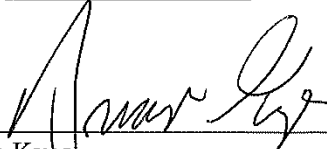
15 18. Aside from the danger 3D-printed firearms present if intentionally fired at an
16 individual or into a crowd, they are also prone to misfiring and exploding.

17 19. The concerns regarding 3D-printed firearms are heightened in cities where there
18 are more arenas and government buildings that rely on metal detectors and wands to prevent
19 dangerous individuals from bringing firearms into crowded areas.

20 20. Widespread access to blueprints and other CAD codes needed for producing 3D
21 weapons, coupled with increasing proliferation of 3D printers, undermines Massachusetts's
22 extensive efforts to reduce gun violence and undercuts the effectiveness of our current laws.
23
24

1 I declare under penalty of perjury under the laws of the United States of America that the
2 foregoing is true and correct.

3
4 DATED this 8 day of August, 2018, at Chelsea, Massachusetts.

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7 Brian Kyes

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DECLARATION OF BRIAN KYES

5

2:18-cv-01115-RSL

The Honorable Robert S. Lasnik

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

STATE OF WASHINGTON, et al.

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
STATE, et al.

Defendants.

NO. 2:18-cv-01115-RSL

DECLARATION OF RON HOSKO

I, Ron Hosko, declare as follows:

1. I am over the age of 18 and have personal knowledge of all the facts stated in this declaration.

2. I am the president of Law Enforcement Legal Defense Fund (LELDF). LELDF is a nonprofit organization dedicated to supporting law enforcement officers by educating the public about the risks and dangers they face in the line of duty and raising funds for the legal defense of officers wrongfully accused or charged of crimes. I received a J.D. degree from the Temple University School of Law in 1984.

3. From 1984 to 2014, I served in the Federal Bureau of Investigation (FBI or Bureau) as a special agent, supervisor, executive, and senior executive. I began my FBI career

DECLARATION OF RON HOSKO
2:18-cv-01115-RSL

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ATTORNEY GENERAL OF WASHINGTON
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1 as a special agent in Jackson, Mississippi, and then Chicago. In 1992, I was assigned to the
2 FBI-led Violent Crimes Task Force in Chicago, Illinois, which worked with Chicago Police
3 detectives and representatives from other agencies in addressing violent crimes including bank
4 robbery, extortion, kidnapping, murder for hire, drug related homicide, armored carrier robbery
5 and other federal and local offenses from that time until early 2001. I supervised the task force
6 from about 1995 until my transfer in 2001. The use and threatened use of firearms was a
7 common feature of the task force's investigative efforts. From late 2001 to 2003, I led the
8 FBI's Crisis Management Unit in Quantico, Virginia, where I worked to guide the FBI's
9 preparation and training before critical incidents and major special events where the FBI had
10 an interest and where I worked to develop the organization's response to critical incidents after
11 they occurred, like 9/11, the D.C. area sniper shootings, and others. Before and after this
12 assignment, I was also part of the FBI's preparations for and response to the 1994 World Cup,
13 the 1996 presidential conventions, the 2002 and 2006 Winter Olympics, Hurricane Katrina,
14 and other major events and incidents.

15 4. From 2003 to 2007, I served in the Philadelphia Field Office as assistant special
16 agent in charge, responsible for, at various times, division administrative activities, our violent
17 crime, violent gang, organized crime programs as well as our surveillance, technical and crisis
18 management activities. In 2007, Director Mueller awarded me the FBI Shield of Bravery for
19 my actions during a violent ransom kidnapping in the Philadelphia area.

20 5. In 2007, I was promoted to the Senior Executive Service as an Inspector. In
21 that capacity, I led multiple investigations of serious and fatal shootings involving FBI and
22 associated law enforcement personnel, and led a seminal 20-year review of FBI shooting
23 incidents. I also conducted internal reviews of FBI components, programs and personnel.

24 6. In 2010, I was promoted Special Agent in Charge of the Washington (D.C.)
Field Office's Criminal and Cyber branch. In that role, I was responsible for strategic
management and oversight of the office's investigations involving financial crimes, public

1 corruption, transnational organized crime, violent criminal enterprises, and violent crimes, as
2 well as all cyber activities including national security threats and criminal intrusions.

3 7. In 2012, I was named Assistant Director of the FBI's Criminal Investigative
4 Division. As Assistant Director, I led the Bureau's largest program worldwide, managing
5 several hundred FBIHQ employees, and ultimately reporting to the FBI Director. Among the
6 tens of thousands of criminal investigations the FBI conducted during my tenure as Assistant
7 Director, I oversaw the multiple high-priority and -visibility investigations of violent persons
8 and organizations—including one involving a southern Alabama man who held a five-year old
9 hostage in a homemade bunker after he shot and killed the boy's bus driver; the armed and
10 violent kidnaping and hostage-taking of the father of a North Carolina prosecutor by Bloods
11 gang members and associates; and the violent kidnaping of Hannah Anderson in the San Diego
12 area who was taken after the murder of her family members. In each of these cases involving
13 the large-scale deployment of FBI personnel and resources, I was responsible for oversight of
14 the FBI response, the integration of the FBI Hostage Rescue Team with other investigative and
15 technical assets, and the rescue of the victims. I retired from the FBI in 2014.

16 8. Over the course of my 30-year FBI career, I developed a broad understanding
17 of the wide array of the threats impacting the FBI mission (as well as that of our investigative
18 partners in North America and around the globe), and the process by which the FBI prioritized
19 its resources and cases. Through my experience at the FBI, I gained a deep understanding of
20 the risks posed by various groups, people, and things (including firearms) that threaten the
21 safety and security of Americans and U.S. residents, including criminal and national security
22 threats. Based on my knowledge, training, and experience, I am an expert in the dangers and
23 risks illegal firearms pose to public safety, the strategies and methods employed to investigate
24 firearms-related crimes, and the serious challenges undetectable, untraceable firearms present
for law enforcement.

9. Throughout my FBI career, among the Bureau's top criminal investigative
priorities was the threat posed by violent gangs and other domestic and international criminal

1 enterprises—particularly those trafficking illegal drugs, weapons, or the proceeds from their
2 sale (both domestically and across national borders). Accordingly, we at the FBI worked
3 diligently to identify people and enterprises involved with the illegal acquisition, production,
4 distribution, concealment, use, and sale of dangerous contraband, including firearms.

5 10. The FBI's investigative work (as well as that of our federal, state, local, and
6 tribal partners) routinely included identifying unlawful possession, use, and related activity
7 involving firearms. Firearms were commonly associated with violent criminal activity by
8 individuals and enterprises. Agents, and their Assistant U.S. Attorney colleagues, work to
9 identify and seize illegal firearms, remove them from the streets, trace their history of
10 possession and use, and bring criminal prosecution where appropriate. Working with the FBI
11 Laboratory and other forensic facilities, FBI agents will also try to "raise" obliterated serial
12 numbers from seized firearms.

13 11. Serial numbers on firearms play an essential role in helping law enforcement
14 officials trace ownership and possession of weapons and commonly lead to prosecution under
15 applicable law(s).

16 12. Based on my 30 years in law enforcement, including my years as a supervisor,
17 executive and senior executive, I believe "plastic guns" with no serial number or uniquely
18 identifying marking that can be created with a 3D printer presents law enforcement with very
19 real and serious concerns.

20 13. Firearms with no serial numbers or obliterated serial numbers make tracking
21 ownership and possession of unlawfully possessed and used guns far more difficult for law
22 enforcement. Widespread production and distribution of 3D-printed guns would greatly hinder
23 law enforcement in its work and likely facilitate a worrisome increase in unsolved homicides
24 and other gun crimes.

25 14. Additionally, current widely-used detection technologies like magnetometers
serve both public and private safety and security officials' objectives because of their ability
to locate dangerous and prohibited metallic objects, like concealed firearms. Changing

1 firearms composition to entirely or primarily plastic, particularly where the functioning
2 weapon can be readily disassembled and reassembled, would, I believe, exponentially increase
3 the risk of “plastic guns” being smuggled into events and places that now have security controls
4 to prevent their presence and use.

5 15. More broadly, based on my experience, I would assess that, despite the notion
6 that only those who could afford a 3D printer would have ready access to “plastic guns”, well-
7 funded criminal enterprises (as well as business-minded private individuals) could and would
8 quickly embrace this technology for use in engaging in the violence, proceeds-collection, and
9 retaliation that commonly attends the work of these organizations. Every year in America,
10 thousands of illegal guns are taken off the streets by law enforcement and thousands of
11 residents are charged with firearms offenses in state and federal courts. Illegally possessed
12 and used firearms are involved in the vast majority of U.S. homicides. This tracks my own
13 experience in the FBI, where the great majority of gang and violent crime the organization
14 addressed had a significant component involving firearms that were unlawfully possessed
15 and/or used. As an assistant director, I directed our personnel to make aggressive use of federal
16 statutes governing such activity in order to ensure armed felons were removed from society for
17 the maximum potential time. I and we were fully aware that it was quite common for
18 criminally-inclined persons to have felony convictions that should have limited their
19 possession and use of a firearm. However, it was also quite common for convicted felons to
20 reoffend while possessing and/or using a firearm. Federal and state laws did too little to
21 prevent such activity, despite the efforts of the FBI and other law enforcement agencies. The
22 risks of ready access to firearms in America are self-evident and include thousands of firearms
23 homicides, armed robberies, and other crimes involving the use of a firearm every year. It is
24 my assessment that plastic, 3D-printed firearms would only exacerbate the existing threat.

16. In sum, I believe the risks posed by 3D-printed plastic guns having no serial
numbers or uniquely identifying markings with which possessors would be reliably tied to
producers are unacceptably high to American society. I believe such firearms would only add

1 to the existing risk of homicide, armed robbery, aggravated battery and assault, as well as other
2 crimes by way of those additional criminally-inclined offenders who believe a "plastic gun"
3 would afford them the opportunity of avoiding detection or accountability. Finally, having
4 3D-printed firearms designs freely available on the Internet, would be, in my opinion, as
5 misguided as posting online instructions on the construction of improvised explosive devices,
6 distilling castor beans into ricin, or any other detailed and accurate information that has a great
7 likelihood of being utilized for malevolent purposes.

8 17. I am not receiving compensation for submitting this declaration, which I have
9 provided to help the Court understand the serious and predictable dangers to the safety and
10 security of Americans that worldwide dissemination of Defense Distributed's 3D-printable gun
11 files would create.

12 I declare under penalty of perjury under the laws of the State of Washington and the
13 United States of America that the foregoing is true and correct.

14 DATED this 1st day of August, 2018, at Alexandria, Virginia.

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16 _____
17 Ron Hosko
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The Honorable Robert S. Lasnik

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

STATE OF WASHINGTON, et al.

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
STATE, et al.,

Defendants.

NO. 2:18-cv-01115-RSL

DECLARATION OF
JOSEPH BISBEE

I, Joseph Bisbee, declare as follows:

1. I am over the age of 18 and have personal knowledge of all the facts stated in this declaration.

2. I am the principal officer of Armed With Knowledge (AWK), a business aimed at education and outreach in regards to firearms issues and providing assistance on policy development and investigations to government, law enforcement and related organizations. AWK focuses on several areas including public education, policy development, strategies to reduce firearms related violent crime, and expert consulting.

3. Prior to creating AWK, between 1989 and March 2015, I was employed as a special agent for the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). Between

DECLARATION OF
JOSEPH BISBEE
2:18-cv-01115-RSL

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ATTORNEY GENERAL OF WASHINGTON
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1 September 1989 and April 1995, I was assigned to the Youngstown, Ohio Field Office. The
2 majority of my investigations related to firearms violations, including the identification and
3 investigation of firearms traffickers operating between Ohio and such market areas as Detroit,
4 Michigan; Philadelphia, Pennsylvania; and others.

5 4. In April 1995, I was promoted to the Firearms Enforcement Branch, Bureau
6 Headquarters (BHQ) as a project officer. During this time, I was an active participant in the
7 development and implementation of firearms related investigative programs within ATF. I
8 also met with high ranking Bureau and Treasury representatives regarding monitored cases
9 and conducted training sessions on firearms trafficking related issues. In 1998, BHQ asked
10 me to lead the ATF/US Customs, Country Assessment for Barbados in relation to their
11 capabilities in addressing firearms related violent crime as well as investigations of illegal
12 firearms.

13 5. Between November 1997 and February 2001, I was assigned to ATF's
14 Washington Group II Field Office. This office is devoted to the investigation of firearms
15 trafficking violations. During this period, I conducted numerous domestic illegal firearms
16 trafficking investigations and because of my expertise in this area, was selected by BHQ to be
17 the case agent on a sensitive investigation involving the attempted assassination of the Police
18 Commissioner of Japan.

19 6. Between February 2001 and January 2004, I was assigned to the US Consulate
20 in Vancouver, B.C., Canada, as ATF's Assistant Country Attaché. In this position I was tasked
21 with coordinating international firearms trafficking investigations as well as providing training
22 to Canadian law enforcement on firearms related matters. In 2002, BHQ assigned me to be
23 the US representative to the Trafficking in Small Arms Working Group in relation to the G-8
24 Summit in Alberta, Canada.

7. Between January 2004 and September 2012, I returned to ATF's Washington
Group II Field Office and again focused on illegal firearms trafficking investigations. I have
been the case agent on numerous investigations in which hundreds of firearms have been

DECLARATION OF
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2:18-cv-01115-RSL

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1 identified as illegally moving between source States such as Ohio, West Virginia, Kentucky,
2 North Carolina, and others; and market areas including the Washington, D.C. metropolitan
3 region. As a result of my experience in the firearms trafficking arena, the March 2008 issue
4 of the Washingtonian Magazine profiled me as "the top federal gun-hunter in DC". Also, in
5 2010, BHQ asked that I be the ATF investigative representative for the El Salvador Country
6 Assessment. I utilized information gathered from meetings with numerous law enforcement,
7 military, and government leaders to recommend ways El Salvador can improve its efforts in
8 addressing firearms crime.

8 8. In September 2012, I was promoted to the Seattle Field Division as the Group
9 Supervisor for the ATF Violent Gang Task Force. This Group focuses on armed violent
10 criminals and criminal organizations utilizing firearms illegally. Many of the investigations I
11 oversaw involved the illegal trafficking of firearms to criminal street gangs and Mexican Drug
12 Trafficking Organizations in which Washington was the source State.

13 9. I have received instruction in both general and specific courses in pursuing
14 firearms trafficking investigations. This training includes study at the Federal Law
15 Enforcement Training Center with successful completion of Criminal Investigator School and
16 New Agent Training, which dealt with ATF specific instruction. I also attended and
17 successfully completed ATF Firearms Interstate Nexus School and Advanced Interstate Nexus
18 School, which provided specific instruction on determining the origin and movement of
19 firearms and ammunition.

20 10. I have been an instructor on firearms related investigative activity to local law
21 enforcement officers in the State of Ohio; the International Law Enforcement Academies in
22 Budapest, Hungary and Gaborone, Botswana; the Vancouver, B.C., Police Department; the
23 Royal Canadian Mounted Police; and many others, as well as providing instruction at ATF's
24 International Firearms Trafficking Conferences. I was asked to prepare and present a case
study on one of my firearms trafficking investigations to the FBI's National Academy for State

DECLARATION OF
JOSEPH BISBEE
2:18-cv-01115-RSL

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1 and Local Law Enforcement. I have also provided firearms trafficking training to new agents
2 at ATF's National Academy in Glynco, Georgia.

3 11. I have been involved in hundreds of investigations into illegal firearms
4 trafficking and have been the case agent on numerous investigations involving organized
5 groups illegally acquiring and disposing of firearms. These investigations have involved
6 thousands of firearms. The majority of these cases involved the interstate movement of
7 firearms, but I have also been involved in the investigation of international trafficking in
8 firearms.

9 12. I have previously testified as an expert witness in U.S. District Court and
10 Superior Court (Washington, D.C.), in the areas of determining the origin and movement of
11 firearms, illicit prices of illegally trafficked firearms, firearm trafficking indicators, and other
12 issues related to illegal firearms trafficking.

13 13. Title 18 USC Section 921 defines a firearm under federal law as any weapon
14 which will or is designed to or may readily be converted to expel a projectile by means of an
15 explosive charge. The definition also includes the frame or receiver of any such weapon, as
16 well as firearm silencers and destructive devices. Firearms themselves are commonly
17 separated into subcategories of Title I and Title II firearms. Title I firearms are the more
18 common types of firearms in which only one projectile will be expelled with each pull of the
19 trigger. Title II firearms include fully automatic weapons, meaning they can expel more than
20 one projectile with each pull of the trigger. Title II firearms have additional regulations for
21 their acquisition, possession and transport. Firearms themselves can be legal or illegal
22 depending on several factors including the presence or absence of a serial number as well as if
23 they have been converted from a Title I firearm into a Title II firearm. The possession of a
24 firearm can also be illegal depending on who is possessing the firearm as well as where the
possession takes place. Further the transfer of firearms can be legal or illegal dependent on
several factors including the age of the individuals involved, their State of residence, and
whether they possess a license to deal in firearms.

DECLARATION OF
JOSEPH BISBEE
2:18-cv-01115-RSL

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1 14. It is currently illegal for the federal government to create a national firearms
2 registration database. ATF is the federal agency tasked with tracing firearms that have been
3 involved in crimes. In order to accomplish this, ATF must contact the manufacturer of the
4 firearm and, utilizing the serial number of the weapon, determine which firearm licensees
5 received the firearm until ultimately a final retail dealer is located. This final retail dealer then
6 provides ATF with the identity of the first retail purchaser. It is not uncommon for this first
7 retail purchaser to have conducted a private sale, which in many States does not require any
8 documentation.

9 15. As previously mentioned, firearms are weapons capable of or readily converted
10 to expel a projectile by means of an explosive charge. A firearm is also defined as the frame
11 or receiver of any such weapon. As technology has improved and certain types of machinery
12 has become more accessible, some groups and companies have undertaken the production of
13 partially milled pieces of metal, commonly referred to as "80% complete receivers". These
14 partially milled pieces of metal are not serialized and are unable to be tracked. Ultimately, the
15 ATF Firearms Technology Branch determines if a piece of metal is merely a piece of metal, or
16 if it has been milled to the point of being a firearm. During my time as the Assistant Country
17 Attaché for ATF in Vancouver, Canada, I did consult with Canadian law enforcement on an
18 organized criminal group acquiring large amounts of "80% complete receivers" with the
19 intention of finishing the items into functioning firearms. As a result of this, I included training
20 on "80% complete receivers" for an International Firearms Trafficking Conference I hosted in
21 Vancouver, Canada. I am also familiar with at least one case in California involving the illegal
22 possession of firearms that originated as partially milled pieces of metal.

23 16. 3D-printed firearms represent a step beyond partially milled receivers because
24 unlike the latter, a 3D-printed gun may be composed entirely (or almost entirely) of plastic
materials manufactured by a commercially available 3D printer. As technology improves and
equipment becomes more available and cheaper, the dangers of partially milled receivers—
and 3D-printed plastic firearms—will increase. The ability for rogue manufactures to provide

DECLARATION OF
JOSEPH BISBEE
2:18-cv-01115-RSL

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1 functioning firearms to the criminal element will increase while law enforcement's ability to
2 identify the illegal sources of these firearms will be severely limited. As stated earlier, law
3 enforcement currently tracks firearms through a serial number most often applied by the
4 manufacturer.

5 17. Criminals attempting to impede the tracking of firearms will often obliterate the
6 serial numbers on firearms they transfer or possess. I have personally interviewed several
7 sources of illegal firearms who either obliterated the serial number themselves or instructed
8 others to obliterate the serial number of firearms involved in illegal trafficking. They all stated
9 the same reason: to make it more difficult for law enforcement to identify the source of the
10 firearm(s). While the possession of a firearm with an obliterated serial number is a crime in
11 and of itself, I focused on these guns as indicators of firearms trafficking. As such, I
12 implemented a program in Washington, D.C. in which I attempted to raise every obliterated
serial number on recovered crime guns.

13 18. With advances in technology, non-metallic materials are now capable of being
14 used in the firearms manufacturing process. Federal law does provide for the regulation of
15 non-metallic materials in firearms in an effort to prevent firearms from being undetectable by
16 magnetometers and x-ray machines. The Undetectable Firearms Act, Title 18 USC Section
17 922(p), makes it unlawful to possess or transfer a firearm that is not as detectable as a "Security
18 Exemplar" in a magnetometer and does not generate an image that allows for the detection of
19 a firearm in an x-ray machine. Unlike the definition of a firearm under Title 18, the
20 Undetectable Firearms Act does not recognize the frame or receiver alone as a firearm.
21 Therefore, only a "major component", i.e. the barrel, slide, cylinder, or the frame, would need
22 to contain the appropriate amount of metal. While those involved in the legitimate manufacture
of firearms follow this law to ensure public safety, criminals could easily circumvent this law
with the appropriate plans, materials and equipment.

23 19. Most of the relevant laws governing the issue discussed in this declaration were
24 enacted over 25 years ago. The advances in technology have far outpaced legislative activity.

DECLARATION OF
JOSEPH BISBEE
2:18-cv-01115-RSL

6


ATTORNEY GENERAL OF WASHINGTON
800 Fifth Avenue, Suite 2000
Seattle, WA 98104-3188
(206) 464-7744

1 Criminals are always seeking access to profitable commodities. 3D-printed, non-metallic
2 firearms that are undetectable by magnetometers and x-ray machines would be extremely
3 profitable. In addition, the ability to track these firearms back to the source would be extremely
4 difficult given the absence of a serial number. Ultimately, unfettered access to designs that
5 make it easier for individuals to produce undetectable and untraceable firearms is a public
6 safety issue.

7 20. I am not receiving compensation for submitting this declaration. I am serving
8 as an expert pro bono because of the serious risk to public safety that would arise from the
9 unrestricted distribution of 3D-printed firearms designs.

10 I declare under penalty of perjury under the laws of the State of Washington and the
11 United States of America that the foregoing is true and correct.

12 DATED this 7TH day of August, 2018, at SEATTLE, Washington.

13 
14 Joseph Bisbee
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DECLARATION OF
JOSEPH BISBEE
2:18-cv-01115-RSL

7

ATTORNEY GENERAL OF WASHINGTON
800 Fifth Avenue, Suite 2000
Seattle, WA 98104-3188
(206) 464-7744

The Honorable Robert S. Lasnik

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

STATE OF WASHINGTON; STATE OF
CONNECTICUT; STATE OF MARYLAND;
STATE OF NEW JERSEY; STATE OF NEW
YORK; STATE OF OREGON;
COMMONWEALTH OF
MASSACHUSETTS; COMMONWEALTH
OF PENNSYLVANIA; DISTRICT OF
COLUMBIA; STATE OF CALIFORNIA;
STATE OF COLORADO; STATE OF
DELAWARE; STATE OF HAWAII; STATE
OF ILLINOIS; STATE OF IOWA; STATE
OF MINNESOTA; STATE OF NORTH
CAROLINA; STATE OF RHODE ISLAND;
STATE OF VERMONT and STATE OF
VIRGINIA,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
STATE; MICHAEL R. POMPEO, in his
official capacity as Secretary of State;
DIRECTORATE OF DEFENSE TRADE
CONTROLS; MIKE MILLER, in his official
capacity as Acting Deputy Assistant Secretary
of Defense Trade Controls; SARAH
HEIDEMA, in her official capacity as
Director of Policy, Office of Defense Trade
Controls Policy; DEFENSE DISTRIBUTED;
SECOND AMENDMENT FOUNDATION,
INC.; AND CONN WILLIAMSON,

Defendants.

NO. 2:18-cv-01115-RSL

DECLARATION OF SHWETAK
PATEL, Ph.D

1 I, Shwetak Patel, Ph.D, declare as follows:

2 1. I am over the age of 18 and have personal knowledge of all the facts stated
3 herein.

4 **Qualifications and Expertise**

5 2. I am a professor of computer science and engineering, as well as electrical
6 engineering, at the University of Washington in Seattle.

7 3. I received my Ph.D in Computer Science from the Georgia Institute of
8 Technology in 2008, and my B.S. in Computer Science in 2003.

9 4. I am the recipient of a MacArthur “Genius” Fellowship (2011), Microsoft
10 Research Faculty Fellowship (2011), Sloan Fellowship (2012), TR-35 Award (2009), World
11 Economic Forum Young Global Scientist Award (2013), NSF Career Award (2013), and the
12 Presidential PECASE Award (2016).

13 5. I have taught a number of classes at the University of Washington that
14 incorporate 3D printing instruction, including how to use 3D printing software, design objects,
15 and create them using a 3D printer. I also direct my research lab, the Ubicomp Lab, which uses
16 3D printing extensively in its research. In addition, I direct a graduate program that has one of
17 the largest “makerspaces” on campus, which has scores of 3D printers available for students
18 to use. I have purchased many 3D printers on behalf of the University of Washington. I also
19 do my own 3D printing as a hobby, and I personally own a 3D printer. As such, I am familiar
20 with a broad range of 3D printers, from low-end to high-end.

21 6. In sum, based on my education, research, and experience, I have expertise in
22 3D printing technology.

23 **3D Printing Technology**

24 7. A 3D printer is essentially a device that can be used to “print” an object in three
25 dimensions. Like a two-dimensional computer printer prints from Microsoft Word or other
26 computer files, 3D printers print three-dimensional objects, also from computer files.

1 8. The vast majority of 3D printers available today use fuse deposition modeling
2 (FDM) technology to print with “filament” rather than ink. Filament is typically made of
3 plastic—either acrylonitrile butadiene styrene (ABS), a common type of sturdy plastic, or
4 polylactic acid (PLA), a biodegradable plastic. FDM printers create objects via an additive
5 process that deposits filament through a nozzle. The nozzle head moves along all three axes
6 (x, y, and z)—left and right, up and down, forward and backward—depositing filament one
7 layer at a time to print in three dimensions.

8 9. An FDM printer for home use typically costs about \$500–1000, though I have
9 seen FDM printers available for as little as \$300. ABS filament is normally sold in 1-kilogram
10 spools that cost roughly \$20–30 each.

11 10. The process of creating an object using 3D printing begins with a computer
12 assisted design (CAD) program, which can be used to draw shapes and create the design of the
13 object. The resulting initial CAD file is only a design and cannot be used directly for 3D
14 printing, because a 3D printer only understands directions telling it “where to go” as it
15 completes the printing job.

16 11. The most common file extension for a 3D printable file is .stl, which stands for
17 stereolithography. This type of CAD file can be loaded into a 3D printer’s software to
18 communicate directly with a 3D printer by telling the printer where to move along each of the
19 three axes in order to produce an object with specified dimensions. The intermediate internal
20 file produced from the .stl to the 3D printer readable file is often a gcode file. Similar to a two-
21 dimensional printable file, before printing an .stl file, you can select the desired number of
22 copies, scale, and resolution of the printed product. Then you simply select “Print” and the 3D
23 printer begins printing from the file.

24 12. There are commercially available software programs (such as Solid Works),
25 and some free programs (such as Onshape, which has a free version) that can be used to convert
26 CAD design files into .stl files that are capable of communicating directly with a 3D printer.

1 13. Virtually no expertise is required to print an item from an .stl file using the
2 default printer settings and assuming the printer is already loaded with materials. You simply
3 open the file and click “Print.”

4 **Defense Distributed’s Files**

5 14. I have reviewed and tested 3D printing files that I downloaded from Defense
6 Distributed’s DEFCAD.com website on July 30, 2018. These included a .zip file containing
7 the “complete” .stl files for a gun called the “Liberator,” which the site indicated had been
8 uploaded on July 27, 2018. The .zip file downloaded from DEFCAD.com included a total of
9 fifteen .stl files for the individual component parts of the Liberator.

10 15. I determined that all of the .stl files for the Liberator were functional (including
11 that they were printable) and not corrupted. I was able to open the files in my CAD software
12 program, where I could see the complete design for the gun. I was then able to print the
13 component parts directly from the .stl files using an Ultimaker 2+ 3D printer.

14 16. In addition to the .stl files, the Liberator .zip file also contains a “readme” text
15 file with written instructions recommending that the user epoxy a metal part to attach to the
16 gun in order to comply with the Undetectable Firearms Act. However, based on my review of
17 the design files referenced above, the readme text, and online videos showing how the gun
18 works, the Liberator is fully functional without this added metal part. It is separate from the
19 gun’s firing mechanism and is simply attached to a part of the frame that performs no function.
20 The assembly instructions also call for an ordinary metal nail. Aside from that, all the gun
21 needs to function is a bullet.

22 17. All of the Liberator’s component parts can easily be printed on a commonly
23 available FDM printer. The primary reasons for the price differential among FDM printers are
24 speed, resolution, and ability to print using different types of materials, but the Liberator’s
25 design does not require a high level of precision and it can be printed out of ordinary ABS
26 filament using a low-end FDM printer. This type of printer is available at the University of

1 Washington for any UW student to use, and is also widely available for purchase, as I stated
2 above.

3 18. A single spool of ABS filament is more than enough to print all the component
4 parts of the Liberator. I estimate that one could print two complete guns using a single spool.
5 My understanding is that if ABS filament is used, the barrel of the gun typically must be
6 replaced after a couple of shots, as the material cannot withstand the heat generated by firing
7 many shots.

8 19. In addition to the Liberator files, I also reviewed other files downloaded from
9 the DEFCAD.com website for other types of guns, including an AR-10 and an AR-15, among
10 others. The site also included references to where to find accessories such as bump stocks. For
11 the AR weapons, the available files were not .stl files, but were .sldprt and .stp files, which are
12 CAD design files of the type described above that cannot be printed directly to a 3D printer.
13 However, these files can easily be converted to .stl using the free version of the Onshape
14 software. Not all of the files for these other guns were complete as of July 30, 2018; some were
15 simply high-level designs or scanned images that would not create a functional weapon if
16 converted to .stl format and printed.

17 20. The AR-10 and other weapons require parts that must be milled out of metal.
18 There are 3D printers available today that can print using metal instead of plastic, though they
19 are expensive. Carbon-fiber filament is commercially available as well.

20 **The Future of 3D Printing Technology**

21 21. It is not currently possible to print an entire AR-10 or similar weapon using
22 metal, but the technology is evolving rapidly. Metal filament and compatible 3D printers are
23 currently expensive and relatively rare, but I expect they will be ubiquitous in approximately
24 five years.

25 22. Emerging materials such as carbon-fiber filament or plastic filament containing
26 metal particles could also be used to print the Liberator. It is widely understood in the 3D

1 printing field and as a matter of basic physics that carbon-fiber or metallic filament is better
2 able to dissipate heat than plastic filament. As such, using carbon-fiber or metallic filament
3 may enable the gun to be fired many times without replacing the barrel.

4 23. Emerging fabrication technologies will also expand the possibilities for 3D
5 printing weapons. For example, additive 3D printing technology is the norm today, but laser
6 cutting technology that whittles material down is also becoming available. Milling technology
7 will make it easier to use laser cutting to produce components of weapons that cannot be made
8 as easily with an additive process. Some of this technology is available today—our department
9 has mills and other fabrication technologies capable of, for example, printing concrete.
10 Emerging fabrication technologies could be used to complete a gun that cannot be made
11 entirely using a 3D printer.

12 24. I anticipate that 3D printers will become increasingly accessible to the public,
13 both in terms of price and availability. I understand there is a movement toward putting 3D
14 printers in libraries for public use; the Seattle Public Library has held 3D printing workshops
15 that are free and open to the public. 3D printers and filament are available for purchase on
16 websites like MatterHackers.com and Amazon.com.

17 25. I believe 3D printers will become ubiquitous in the near future, both for home
18 and commercial use. 3D printing files are like hardware that you can carry in your pocket.
19 These files allow you to make a tangible item on demand with little more than the click of a
20 button. This technology could be used to reduce waste and save money, because household
21 items and consumer goods could be printed only as needed. For example, when the technology
22 develops sufficiently, a car manufacturer will not need to incur the cost of housing a large
23 inventory; they will be able to simply receive a customer's order and print a car that meets
24 their specifications. I expect that increased demand for this type of technology will drive its
25 development.
26

26. In sum, currently, anyone who has the .stl files and access to an FDM printer, which can cost as little as \$300, could easily print a functional weapon. Moreover, 3D printing and other fabrication technologies are advancing rapidly and will become more and more accessible, opening up the possibilities for creating other types of weapons with essentially one click.

I declare under penalty of perjury under the laws of the State of Washington and the United States of America that the foregoing is true and correct.

DATED this 6th day of August, 2018, at Seattle, Washington.

Shirley Paley

Shwetak Patel, Ph.D

The Honorable Robert S. Lasnik

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

STATE OF WASHINGTON, et al.

NO. 2:18-cv-01115-RSL

Plaintiffs,

DECLARATION OF
THOMAS SCOTT

v.

UNITED STATES DEPARTMENT OF
STATE; MICHAEL R. POMPEO, in his
official capacity as Secretary of State;
DIRECTORATE OF DEFENSE TRADE
CONTROLS; MIKE MILLER, in his official
capacity as Acting Deputy Assistant Secretary
of Defense Trade Controls; and SARAH
HEIDEMA, in her official capacity as Director
of Policy, Office of Defense Trade Controls
Policy; DEFENSE DISTRIBUTED; SECOND
AMENDMENT FOUNDATION, INC.; and
CONN WILLIAMSON

Defendants.

DECLARATION OF THOMAS SCOTT

1

2:18-cv-01115-RSL

1 I, Thomas Scott, declare as follows:

2 1. I am the Executive Director of the Massachusetts Association of School
3 Superintendents ("MASS"), a membership organization comprised of 277 superintendents and
4 148 assistant superintendents.

5 2. MASS seeks to provide strategic leadership for the continuous improvement of
6 public education for all children.

7 3. As part of this mission, MASS promotes appropriate and deep integration of
8 technology in instruction to enhance effective teaching.

9 4. Three dimensional ("3D") printers are widely available to students in schools
10 across Massachusetts. Many schools include instruction on the use of such printers as part of
11 the curriculum.

12 5. Based on a brief survey of MASS members, it is evident that most districts
13 provide students easy access to 3D printers. In most cases students have unsupervised access
14 As examples, one school district provides 3D printers as part of their engineering program,
15 another provides multiple 3D printers in all schools for a variety of school projects, a third
16 provides full access of 3D printers for their senior project, and a fourth district provides
17 summer camp specifically on the use of 3D printers related to their curriculum. 3D printers
18 have become a regular tool in school programs and curriculum.

19 6. Given the already heightened concerns for student safety in schools today,
20 MASS and its members are alarmed by the prospect of online posting of technical data which
21 would allow children and others who should not have access to weapons to print plastic guns
22 that could do harm in our schools.

23 7. This would be a direct threat to school safety and add additional burdens to
24 schools in their free and open use of technology in school programs and activities.
25
26

Executed on this 7th day of August, 2018 at Lexington, Massachusetts.


THOMAS SCOTT

The Honorable Robert S. Lasnik

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

STATE OF WASHINGTON, et al.

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
STATE; MICHAEL R. POMPEO, in his
official capacity as Secretary of State;
DIRECTORATE OF DEFENSE TRADE
CONTROLS; MIKE MILLER, in his official
capacity as Acting Deputy Assistant Secretary
of Defense Trade Controls; and SARAH
HEIDEMA, in her official capacity as Director
of Policy, Office of Defense Trade Controls
Policy; DEFENSE DISTRIBUTED; SECOND
AMENDMENT FOUNDATION, INC.; and
CONN WILLIAMSON

Defendants.

NO. 2:18-cv-01115-RSL

DECLARATION OF
FREDERICK P. RIVARA, MD, MPH
IN SUPPORT OF PLAINTIFFS'
MOTION FOR PRELIMINARY
INJUNCTION

Hearing Date: August 21, 2018

I, Frederick P. Rivara, MD, MPH declare as follows:

1. I am over the age of 18 and have personal knowledge of all the facts stated herein.
2. I am the Vice Chair and Professor of Pediatrics and Adjunct Professor of
Epidemiology at the University of Washington. I am an elected member of the National

DECLARATION OF
FREDERICK P. RIVARA, MD, MPH
2:18-cv-01115-RSL

1

ATTORNEY GENERAL OF WASHINGTON
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(206) 464-7744

1 Academy of Medicine (formerly the Institute of Medicine) and has conducted research on injury
 2 prevention for 40 years and on firearm injuries for 30 years. I have been recognized for my
 3 accomplishments by the Centers for Disease Control and Prevention, the American Public Health
 4 Association, the American Academy of Pediatrics, the Academic Pediatric Association and the
 5 University of Washington. I am a founding director of the Harborview Injury Prevention and
 6 Research Center and have served as its director for more than a decade. A true and correct copy
 7 of my Curriculum Vitae is attached hereto as Exhibit A.

8 3. My research on firearm injuries included seminal studies published in the *New*
 9 *England Journal of Medicine* showing the association of home ownership of guns and risk of
 10 violent death in the home, comparison of homicide and suicide in Seattle and Vancouver, BC
 11 (similar cities with very different firearm laws), the effect of safe storage on firearm deaths
 12 among children and adolescents, and injury and criminal recidivism of patients admitted with
 13 gunshot injuries.

14 4. I am generally regarded as one of the leading experts in the world on prevention
 15 of injuries to children.

16 5. Guns manufactured by private individuals with 3-D printers pose many risks,
 17 especially to children and youth.

18 6. **Mistaking a 3-D printed gun for a toy gun.** The photos of 3-D printed guns
 19 reflect that these devices resemble toy guns. Studies conducted with school-aged children show
 20 that they easily find hidden guns while playing, and those who do find them pull the trigger,
 21 while aiming it at co-playmates. Jackman et al¹ studied 8-12 year old boys in a lab situation and
 22

23 ¹ Jackman GA, Farah MM, Kellermann AL, Simon H. *Seeing is believing: what do boys do when they*
 24 *find a gun?* Pediatrics; 2001; 1247-50.

showed that 72% of boys found a hidden gun, 76% handled it and 48% pulled the trigger. Dillon and Bushman² Similarly studied 104 8-12 year olds and showed 83% found the hidden gun and 42% handled it. Approximately 80-100 children die each year from accidental shootings.³ The most common circumstance for these deaths, accounting for half, was playing with a gun. A gun was mistaken for a toy in 16% of younger children's deaths.

7. **School shootings:** The United States has been plagued by school shootings over the last 19 years since the 13 youth killed in Columbine in 1999. More than 187,000 students attending at least 193 elementary or secondary schools have been exposed to a shooting on campus during school hours. In the majority of middle and high school shooting incidents, the shooter was a student at the school.⁴ By federal law, individuals under the age of 21 are prohibited from purchasing a handgun. With the availability of 3-D printers in many high schools, there is a significant risk that a student will manufacture his or her own handgun using this technology. Moreover, in the wake of the spate of school shootings in the nation, some schools are installing metal detectors. These guns would be able to escape such detection.

8. **Children as the other victim of intimate partner violence (IPV).** Every year, more than 1800 persons, 85% of whom are women, are killed by their intimate partners; half of these murders involve guns. State laws that prohibit a person subject to IPV-related restraining orders from possessing firearms. Concomitantly, states that require persons subject to IPV-related restraining orders to relinquish firearms in their possession have a 10% lower intimate

² Dillon KP, Bushman B. *Effects of exposure to gun violence in movies on children's interest in real guns.* JAMA Pediatrics 2017; 171: 1057-62.

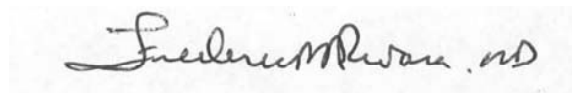
³ Fowler KA, Dahlberg LL, Haileyesus T, Guttierrez C, Bacon S. *Childhood firearm injuries in the US.* Pediatrics 2017; 140 (1).

⁴ FBI. *A study of active shooter incidents in the US between 2000 and 2013.* Department of Justice, September 2013.

1 partner homicide rate than states without those laws.⁵ Based on this data, it is reasonable to
 2 predict that the ability of abusers to bypass such laws by manufacturing their own guns on 3-D
 3 printers will lead to an increase in intimate partner homicides. Two-thirds of female victims of
 4 IPV have children in the home, who represent the other victim of IPV. It is likewise reasonable
 5 to predict that these children will suffer an increase in injuries and death from the widespread
 6 availability of 3D-printed guns.

7 I declare under penalty of perjury under the laws of the State of Washington and the United
 8 States of America that the foregoing is true and correct.

9 DATED this 6 day of August, 2018, at Seattle, Washington.

11 

12 Frederick P. Rivara, MD, MPH

23 _____
 24 ⁵ Diez C, Kurland R, Rothman E, et al. *State intimate partner violence-related firearm laws and intimate partner homicide rates in the US, 1991 to 2015*. *Annals Intern Med* 2017; 167: 536-543.

Exhibit 1

CURRICULUM VITAE

Frederick P. Rivara, M.D., M.P.H.

Date of Birth: May 17, 1949

Place of Birth: Far Rockaway, New York

Current Appointments: Professor of Pediatrics,
University of Washington, School of Medicine

Adjunct Professor, Epidemiology, University of Washington, School of Public Health

Vice Chair for Academic Affairs, Department of Pediatrics, University of Washington, School of Medicine

Seattle Children's Guild Endowed Chair in Pediatric Research

Contact information: Harborview Injury Prevention and Research Center
Box 359960, 325 Ninth Ave, Seattle, WA 98104
(206) 744-9449, fax (206) 744-9962, email: fpr@uw.edu

EDUCATION:

1962 - 1966 Archbishop Molloy High School
Jamaica, New York

1966 - 1970 College of the Holy Cross
Worcester, Massachusetts

1970 - 1974 University of Pennsylvania
Philadelphia, Pennsylvania

1978 - 1980 University of Washington
Seattle, Washington

DEGREES
OBTAINED:

1970 B.A., Summa Cum Laude, College of the Holy Cross

1974 M.D., University of Pennsylvania

1980 M.P.H., University of Washington

PROFESSIONAL
TRAINING:

1974 - 1976 Intern and Junior Assist. Resident, Pediatrics, Children's Hospital
Medical Center, Boston, MA

1978 - 1980 Senior Assistant Resident in Pediatrics and Senior Fellow, Univ. of
Washington, Seattle, Washington

1978 - 1980 Fellowship, Robert Wood Johnson Clinical Scholar, University of
Washington, Seattle, Washington

1993 Visiting Scholar, Institute of Criminology, Cambridge University,
Cambridge, United Kingdom

Frederick P. Rivara, M.D., M.P.H.

2

1994 Visiting Faculty, University of Malaysia, Kuala Lumpur, Malaysia

ACADEMIC
APPOINTMENTS:

1978 - 1980 Acting Instructor, Department of Pediatrics, University of Washington

1981 - 1984 Assistant Professor, Department of Pediatrics and Community
Medicine, University of Tennessee Center for the Health Sciences
1984 Associate Professor of Pediatrics, University of Tennessee Center for
the Health Sciences

1984 - 1989 Associate Professor of Pediatrics,
Adjunct Associate Professor of Epidemiology,
University of Washington

1989 - Professor of Pediatrics,
Adjunct Professor of Epidemiology, Univ. of Washington

PROFESSIONAL
POSITIONS:

1976 – 1978 Medical Director, Outreach Services,
Family Health Services, Hazard, Kentucky

1976 - 1978 National Health Service Corps,
Family Health Services, Hazard, Kentucky

1981 - 1984 Director, Resident Continuity Clinic Program, Dept. of Pediatrics,
University of Tennessee

1983 - 1984 Medical Director, Southern Poison Center

1981 - 1984 Associate Director, Ambulatory Care,
LeBonheur Children's Medical Center

1981 - 1984 Pediatric Coordinator, Robert Wood Johnson Rural Infant Care Project

1987 - 2000 Director, Harborview Injury Prevention & Res. Ctr

1990 – 1991 President of Medical Staff, Harborview Med. Center

2001 - 2002

1994 - 2015 Head, Division of General Pediatrics, University of Washington

1997- Vice Chair for Academic Affairs, Department of Pediatrics, University of
Washington

2000-2017 Editor, *Archives of Pediatrics & Adolescent Medicine/ JAMA Pediatrics*

2017- Editor, *JAMA Network Open*

Frederick P. Rivara, M.D., M.P.H.

3

HONORS AND
AWARDS:

Marie Leebron Prize in Pediatrics,
University of Pennsylvania, 1974

United States Public Health Service Award for Outstanding Service,
1978

Ambulatory Pediatric Association, Excellence in Teaching and
Research Award, 1984

Highline Council PTSA Community Service Award, 1988

Award of Excellence for Injury Prevention,
Johns Hopkins University, 1991

George Adkins Endowed Professorship, 1991

Ambulatory Pediatric Association, Research Award, 1992

National SafeKids Research Award, 1992

American Academy of Pediatrics, Section on Injury and Poison
Prevention, Physician Achievement Award, 1994

American Public Health Association, Injury Control and Emergency
Health Services Section Distinguished Career Award, 1995

Charles C. Shepard Science Award, Centers for Disease Control and
Prevention, 1998

Stanley Stamm Award for Best Role Model for Pediatric Housestaff,
1999

Honorary Fellow, Royal College of Paediatrics and Child Health 2004-
Elected Member, Institute of Medicine 2005-

University of Washington School of Public Health Distinguished
Alumnus Award, 2009

Miller-Sarkin Mentoring Award, Academic Pediatric Association April
2012

University of Washington Minority Faculty Mentoring Award, 2015

Injury Free Coalition Prevention Pioneer Award, 2015

Pediatric Trauma Society Lifetime Achievement Award, 2016

CERTIFICATION: American Board of Pediatrics, 1981

Frederick P. Rivara, M.D., M.P.H.

4

PROFESSIONAL ORGANIZATIONS:

Alpha Omega Alpha (AOA),
Elected to membership, 1973;
President, Beta Chapter University of Pennsylvania
1973-1974

Ambulatory Pediatric Association
Board of Directors 1987-89

American Academy of Pediatrics (Fellow, 1981)

International Society for Child and Adolescent Injury
Prevention (Founding Member, 1993, and Founding
President, 1993-1999)

Society for Pediatric Research

American Association for the Surgery of Trauma
(Contributing Scientist, 1997-)

American Pediatric Society, 2001-

Institute of Medicine, 2005-

Society for the Advancement of Injury Research
Member of the Board 2009-2012
President Elect, 2012
President 2013-2014

NATIONAL COMMITTEES AND CONSULTANTSHIPS:

Epidemiology Task Force, DSHS, State of Washington,
1987-1988

National Committee for Injury Prevention and Control,
1987-1989

Residency Training Committee, Department of Pediatrics,
University of Washington, 1987-2000

Committee on Accident & Poison Prevention, American
Academy of Pediatrics, 1987-1989

Frederick P. Rivara, M.D., M.P.H.

5

National Consortium on Violence Research, 1996-2000

Chair, Injuries Working Group, National Children's Study.
2001-2004

Scientific Advisory Board (Chair), Hospital for Sick Kids
Research Institute, 2006-2012

Committee on Adolescent Health Care Services and
Models of Care, Institute of Medicine 2006-2008

Board of Children, Youth and Families, National Research
Council and Institute of Medicine, 2007—2010

Committee on Oral Health Access to Care (Chair),
Institute of Medicine, 2009-2011

Scientific Advisory Board, The Urban Child Institute,
Memphis, TN 2008-2015

Committee on Sports Related Concussions in Youth,
Institute of Medicine (Vice Chair) 2012-2013

Nomination Committee, American Pediatric Society 2012

NICHHD special study section for T32 applications 2013

Prevention of Bullying Workshop, Chair, Institute of
Medicine April 2014

NICHHD Advisory Council 2015-2018

Committee on the Biological and Psychosocial Effects of
Peer Victimization: Lessons for Bullying Prevention,
Institute of Medicine, Chair 2015-2016

Frederick P. Rivara, M.D., M.P.H.

6

EDITORIAL RESPONSIBILITIES:

Editorial Board, *Pediatrics in Review*, 1987-1990

Associate Editor, *Injury Prevention*, 1995-1999

Deputy Editor, *Injury Prevention*, 1999-2010

Associate Section Editor (Injury Epidemiology and Prevention), *Journal of Trauma*, 1996

Editorial Board, *Journal of Surgical Outcomes*, 1998

Editorial Board, *AAP Grand Rounds*, 1998-2001

Editorial Board, *Journal of the Ambulatory Pediatric Association*, 1998-2002

Guest Editor, Special Issue of *American Journal of Preventive Medicine on Systematic Reviews of Motor Vehicle Injury Prevention Programs*, 1999

Guest Editor, Special Issue of *American Journal of Preventive Medicine on Systematic Reviews of Occupational Injury Prevention Strategies*, February, 2000

Issue Editorial Advisor, Unintentional Injuries in Children, *Future of Children* Spring/Summer, 2000

Editor in chief, *Archives of Pediatrics & Adolescent Medicine/ JAMA Pediatrics*, 2001-17

Editorial Board, *JAMA* 2001-

Editor in chief, *JAMA Network Open*, 2017-

PUBLICATIONS:

1. **Rivara FP.** Outreach in urban clinics: A descriptive study. *J Community Health* 1980; 6:43-53.
2. **Rivara FP.** Impact of the Rural Health Clinics Services Bill: A projection. *J Community Health* 1980; 6:103-112.
3. **Rivara FP.** Irritable bowel syndrome presenting in the first week of life. *J Fam Pract* 1980; 10:731-732.
4. Berger LR, **Rivara FP.** Mini-bikes: A case study in under-regulation. *Business and Society Review* 1980; 41-43.
5. Williams H, **Rivara FP**, Rothenberg MB. The child is dying: Who helps the family? *Am J Maternal Child Nursing* 1981; 6:261-265.
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Frederick P. Rivara, M.D., M.P.H.

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Frederick P. Rivara, M.D., M.P.H.

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Frederick P. Rivara, M.D., M.P.H.

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NATIONAL AND INTERNATIONAL INVITATIONAL LECTURES AND VISITING PROFESSORSHIPS

Annual meeting keynote speaker, Child Accident and Prevention Trust, London, UK, October 27, 1993

The role of medicine in Violence Prevention. Hastings Center, New York, New York, 1994

Community based approaches to Injury Prevention. Crippled Children's Foundation Forum on Child Health, invited faculty, University of Tennessee, Memphis, TN, October 12-13, 1995

Bicycle helmets and prevention of head injuries. Department of Pediatrics, New York University, New York, New York.

Guns and risk of Violent Death. Department of Pediatrics, SUNY at Buffalo, New York

Community Approaches to Injury Control. Pediatric Grand Rounds, Children's Hospital and Medical Center, Cincinnati, OH, July 2, 1996.

Community Approaches to Injury Control. Pediatric Grand Rounds, Children's Hospital of Philadelphia

Community Approaches to Injury Control. Pediatric Grand Rounds, Hospital for Sick Children, Dept. of Surgery, Toronto, Canada.

Science and injury control. State of the Art Plenary Session, Society for Pediatric Research, Washington, D.C., May 3, 1997

Frederick P. Rivara, M.D., M.P.H.

57

Alcohol and the risk of injury. 4th Burlington Northern Visiting Lectureship in Trauma. The University of Texas Southwestern Medical Center at Dallas, Dallas, TX, February 25, 1998.

Role of the pediatrician in violence prevention. Visiting Professor, Grand Rounds. University of Arkansas, Arkansas Children's Hospital, Little Rock, AR, April 6-7, 1998.

Keynote address at the 1998 Charles C. Shepard Science Award, "Injury Control – the Uses of Science for Prevention." Centers for Disease Control and Prevention, Atlanta, GA, May 7, 1998.

Role of the pediatrician in violence prevention. Silverman Lectureship, State University of New York, Department of Pediatrics, Syracuse, NY, November 4, 1998.

Child occupant protection. Keynote speaker, Lifesavers Conference, Seattle, Washington, March 22, 1999.

Community approaches to injury control. The Pele Chandler Lectureship, Pediatric Grand Rounds, Baylor College of Medicine, Houston, TX, May 21, 1999.

The Inaugural Lydia Catherine McCutcheon Lecture on Childhood Injury Prevention, "Motor vehicle crashes. Causes and prevention of injury," Surgical Services Grand Rounds, Hospital for Sick Children, Toronto, Ontario, Canada, January 11, 2001.

Using science to change public policy. Visiting Professor, Department of Pediatrics, University of Michigan, Ann Arbor Michigan. September 2001.

Keynote Speaker, SafeUSA Conference Atlanta, GA. December 3, 2001

(1) Using science to change public policy. (2) Mentoring junior faculty. Pfizer Visiting Professor, Boston Medical Center, March 2002

Mentoring fellows and junior faculty. Leader, Session at 2003 Pediatric Academic Societies meeting, May 2002

Prevention of Injuries to Children and Adolescents Plenary Session, 6th World Conference of Injury Prevention and Control, Montreal, Canada, May 12-15, 2002

Using science to change public policy. Visiting Professor, Grand Rounds, University of Tennessee, Memphis, TN, June 18-19, 2002

Using science to change public policy. Keynote speaker, Robert Wood Johnson Generalist Faculty Scholar Annual Meeting, Ponte Vedra, FL December 3, 2002.

Mentoring fellows and junior faculty. Leader, Session at 2003 Pediatric Academic Societies meeting, Seattle, WA, May 2003

"Breakfast with the Professor", 2003 Pediatric Academic Societies meeting, Seattle, WA, May 2003

Role of the pediatrician in violence prevention. Annual Alan Ross Lecturer, McGill University Health Centre, Montreal, Quebec, Canada; September 17, 2003

Featured presenter at the 2003 Annual Meeting of the American Public Health Association's Injury Control and Emergency Health Services section special session, San Francisco, CA November 17, 2003

Frederick P. Rivara, M.D., M.P.H.

58

Pediatric determinants of adult disease. Visiting Professor, Department of Pediatrics, Yale University. 2004

Mentoring fellows and junior faculty. Leader, Session at 2004 Pediatric Academic Societies meeting, May 2004

The Second Annual Rud Polhill lecture, Department of Pediatrics, University of Alabama Birmingham, April 13, 2005.

Methodologic considerations for Injury Research. Ambulatory Pediatric Association Injury Control Special Interest Group. Pediatric Academic Societies' Annual Meeting. Washington, DC. May 16, 2005

The 1 million lives campaign. Ambulatory Pediatric Association Injury Control Special Interest Group. Pediatric Academic Societies' Annual Meeting. Washington, DC. May 2006

Interventions during childhood to prevent later violence and homicide. Annual Meeting of the American Society of Criminology, Los Angeles, November 2006.

Intimate partner violence and its effects on children. Annual Cornfeld lecture. Children's Hospital of Philadelphia, January 31, 2007

The scientific basis of injury research. Invited to deliver the Grant Gall lecture. University of Calgary and Alberta Children's Hospital, Calgary, Canada. February 7, 2007.

Intimate partner violence. 19th Annual WAMI Trauma Conference, Seattle June 3, 2008.

On becoming a physician: Idealism and Science. Keynote Speaker at the University of Tennessee College of Medicine White Coat Ceremony, August 15, 2008.

Global Health and Childhood Injury. Keynote address to the Section on Injury, Violence and Poison Prevention, AAP National Meeting, Boston, October 13, 2008.

Non-randomized designs. Workshop at the Pediatric Academic Societies Meeting, Baltimore May 5, 2009.

Ethical issues in manuscript preparation. Workshop at the Pediatric Academic Societies Meeting, Baltimore May 2, 2009.

35th William T. Fitts, Jr. Oration, Annual Meeting of the American Association for the Surgery of Trauma, Pittsburgh October 2, 2009.

Keynote Speaker, Owen Wells Symposium, Maine Medical Center, November 13, 2009

Global injury control. The William T. Fitts, Jr., MD Annual Lectureship in Trauma, Annual meeting of the American Association for the Surgery of Trauma, September 2009.

Plenary Speaker, "Moving forward in controlling injuries to children" Safety 2010 World Conference, London , UK September 22, 2010.

Frederick P. Rivara, M.D., M.P.H.

59

Improving Access to Oral Health Care, Physician and Dentist: Together managing early childhood health, Seattle July 28, 2011

California Report Dissemination Workshop, San Francisco, August 4, 2011
Improving oral health care for children.

Preventing injuries to children around the world. Excellence in Pediatrics Annual Meeting, Istanbul November 2011.

Role of pediatricians in controlling and preventing injuries. 35th AI's Run Visiting Professor, Children's Hospital of Milwaukee, September 2012.

Impact of intimate partner violence on children, Excellence in Pediatrics Annual Meeting, Madrid, November 2012.

Writing your first paper. PAS/APPD Core curriculum fellows; series. PAS annual meeting, San Diego, April 24, 2015

Adventures in Journal Editing. PAS Annual meeting, San Diego, April 26, 2015

Novel insights into pediatric trauma. PAS Topic Symposium, San Diego April 27, 2015

Sports concussions in Youth. The 2015 Harry Medovy Lecture, Children's Hospital, Winnipeg, University of Manitoba. 2015

Keynote speaker. 42nd Annual Rocky Mountain Trauma & Emergency Medicine conference. Jun 2015.

Prevention of injuries to children and Adolescents: Where we have been, where we Need to go. Injury Free Coalition annual meeting , Fort Lauderdale Nov 14, 2015.

Keynote speaker, 3rd annual meeting of the Pediatric Trauma Society, Nashville TN 2016

Keynote Speaker. 2017 Templeton Pediatric Trauma Symposium. Pittsburgh, PA March 3, 2017. Lessons from 30 years of Pediatrics Injury Control and Advocacy

Keynote Speaker, Society for Pediatric Epidemiologic Research Annual Meeting June 20, 2017

Prevention of firearm injuries. Grand Rounds, Texas Children's Hospital, June 2017.

The Honorable Robert S. Lasnik

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

STATE OF WASHINGTON, et al.

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
STATE; MICHAEL R. POMPEO, in his
official capacity as Secretary of State;
DIRECTORATE OF DEFENSE TRADE
CONTROLS; MIKE MILLER, in his official
capacity as Acting Deputy Assistant Secretary
of Defense Trade Controls; and SARAH
HEIDEMA, in her official capacity as Director
of Policy, Office of Defense Trade Controls
Policy; DEFENSE DISTRIBUTED; SECOND
AMENDMENT FOUNDATION, INC.; and
CONN WILLIAMSON

Defendants.

NO. 2:18-cv-01115-RSL

DECLARATION OF
MARK RACINE

DECLARATION OF MARK RACINE

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2:18-cv-01115-RSL

1
2 I, Mark Racine, declare as follows:
3

4 1. I am the Chief Information Officer ("CIO") for the Boston Public Schools
5 ("BPS"), a school system serving more than 56,000 students in 125 schools from
6 prekindergarten through grade 12.
7

8 2. As the CIO, I am responsible for BPS' technology equipment, hardware,
9 software, systems and related services.
10

11 3. Three dimensional ("3D") printers are available to students in many BPS
12 schools, and students are learning, as part of the curriculum, to operate these technologies.
13

14 4. The declining price of 3D printers, coupled with the inclusion in our Computer
15 Science pathways, has increased the accessibility of 3D printers in many of our schools. We
16 currently support over 100 3D printers in BPS with over 50 teachers trained on the use of 3D
17 printers this last spring.
18

19 5. Moreover, 3D printers are becoming more prevalent and available outside of
20 school, as more advanced and affordable models come to the market.
21

22 6. Many of our teachers and students are acquiring 3D printers on their own as the
23 cost continues to drop, with some models already on the market for under \$100. We feel
24 strongly that our students must be prepared to learn and work with technology such as 3D
25
26

1 printers, but the availability of downloadable plans for firearms sends the wrong message about
2 the role of this technology to our students.
3

4 7. The safety of our students, both in and out of school, is the highest priority for
5 the Boston Public Schools and we strongly discourage the distribution of electronic blueprints
6 for the construction of firearms.
7

8
9 I declare under penalty of perjury that the foregoing is true and correct.

10 Executed on this 3th day of August, 2018 at Boston, Massachusetts.
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12 
13 MARK RACINE
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DECLARATION OF MARK RACINE

3

2:18-cv-01115-RSL

The Honorable Robert S. Lasnik

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

STATE OF WASHINGTON, et al.

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
STATE; MICHAEL R. POMPEO, in his
official capacity as Secretary of State;
DIRECTORATE OF DEFENSE TRADE
CONTROLS; MIKE MILLER, in his official
capacity as Acting Deputy Assistant Secretary
of Defense Trade Controls; and SARAH
HEIDEMA, in her official capacity as Director
of Policy, Office of Defense Trade Controls
Policy; DEFENSE DISTRIBUTED; SECOND
AMENDMENT FOUNDATION, INC.; and
CONN WILLIAMSON

Defendants.

NO. 2:18-cv-01115-RSL

DECLARATION OF
GAREN WINTEMUTE

I, Garen Wintemute, hereby declare as follows:

1. I received my B.S. from Yale University in 1973; my M.D. from the UC Davis School of Medicine in 1977; and M.P.H. from the Johns Hopkins University Bloomberg School of Public Health in 1983.

DECLARATION OF
GAREN WINTEMUTE

1

2:18-cv-01115-RSL

2. I am presently the Director of the Violence Prevention Research Program at UC Davis School of Medicine, which is a research center dedicated to (1) conducting research and developing sound scientific evidence on the nature, causes, consequences, and prevention of firearm violence; (2) promoting the adoption of evidence-based firearm violence prevention measures; and (3) increasing education and training in firearm violence research and its applications
3. I am also Director of the University of California Firearm Violence Research Center, the nation's first publicly funded center for research and policy development on firearm violence.
4. I have published extensive findings on gun accessibility, the relationship between gun ownership and violence, and other related topics.
5. I have also testified before Congress and served as a consultant for the National Institute of Justice; the Bureau of Alcohol, Tobacco and Firearms (on matters related to the criminal use of firearms); and the Centers for Disease Control and Prevention.
6. Today is not the first time that the United States has encountered the threat of plastic firearms.
7. In the 1980s, gun manufacturers sought to produce firearms made almost entirely out of plastic.
8. In 1988, I published an article in the official journal of the American Academy of Pediatrics explaining how plastic firearms are particularly dangerous for children who mistake them for toys. The firearms proposed for production at

DECLARATION OF
GAREN WINTEMUTE

2

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1 that time would also have been undetectable by security screening devices at
2 airports and other public places.

3 9. Later that year, Congress passed the Undetectable Firearms Act, a federal law
4 that prohibits the manufacture and sale of these dangerous weapons.

5 10. Thankfully, as a result of this and other similar laws, undetectable, plastic
6 firearms that resemble toys have not caused serious public health problems over
7 the past thirty years.

8 11. But the danger is now back – and this time it is even greater than before.

9 12. Because modern-day plastic firearms may be made by virtually anyone with
10 access to a 3D printer, these deadly weapons will likely have greater public
11 health consequences than anything we could have imagined back in 1988.

12 13. The number of unintentional shooting deaths of children will likely increase as
13 many children may believe the weapons are toys.

14 14. The inability of plastic firearms to be detected by metal detectors will likely
15 lead to these weapons being taken into schools, prisons, courthouses, and other
16 places of public accommodation.

17 15. Because they will not have serial numbers or other identifying information, they
18 will not be traceable for criminal justice purposes and for that reason will be
19 particularly suitable for criminal use. With current firearms, as studies by the
20 Bureau of Alcohol, Tobacco and Firearms have shown, criminal users often go
21 to great lengths to obliterate serial numbers.

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DECLARATION OF
GAREN WINTEMUTE

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1 16. Finally – and perhaps most importantly – plastic firearms will almost certainly
2 be used by people who pose a danger to themselves or others – including people
3 with mental illness or a history of violence.

4 17. For all these reasons, there is no doubt that plastic firearms pose a grave threat
5 to public health and safety.

6
7 I declare under penalty of perjury under the laws of the United States of America that the
8 foregoing is true and correct.

9
10 DATED this 3rd day of August, 2018, at Sacramento, California.

11
12 
13 _____
14 GAREN WINTEMUTE
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DECLARATION OF
GAREN WINTEMUTE

The Honorable Robert S. Lasnik

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

STATE OF WASHINGTON, et al.

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
STATE; MICHAEL R. POMPEO, in his
official capacity as Secretary of State;
DIRECTORATE OF DEFENSE TRADE
CONTROLS; MIKE MILLER, in his official
capacity as Acting Deputy Assistant Secretary
of Defense Trade Controls; and SARAH
HEIDEMA, in her official capacity as Director
of Policy, Office of Defense Trade Controls
Policy; DEFENSE DISTRIBUTED; SECOND
AMENDMENT FOUNDATION, INC.; and
CONN WILLIAMSON

Defendants.

NO. 2:18-cv-01115-RSL

DECLARATION OF
DAVID HEMENWAY

I, David Hemenway, declare as follows:

1. I am over the age of 18 and have personal knowledge of all the facts stated herein.
2. I received my B.A. from Harvard University in 1966 and my Ph.D from Harvard University in 1974.

DECLARATION OF
DAVID HEMENWAY

1

2:18-cv-01115-RSL

- 1 3. I am Professor of Health Policy at the Harvard (T.H. Chan) School of Public
2 Health and Director of the Harvard Injury Control Research Center. Since
3 1990, faculty of the Center have written over 150 journal articles on firearm
4 issues.
- 5 4. I am personally the first-author of over 80 journal articles, including articles on
6 the topics of firearms, violence, and suicide.
- 7 5. I am also the sole author of five books, including Private Guns Public Health
8 (2006, 2017), which summarizes the literature on the relationship between guns
9 and injuries, and describes the public health approach to reducing firearms
10 violence.
- 11 6. In 2012, I was recognized by the Centers for Disease Control & Prevention as
12 one of the “twenty most influential injury and violence professionals over the
13 past twenty years.”
- 14 7. My research on firearms has covered many areas, including firearms regulation,
15 the relationship between firearms and suicide, the relationship between firearms
16 and violence, and how firearms affect a community’s feelings of safety.
- 17 8. As a public health leader, I can tell you that the overarching goal of public
18 health is prevention.
- 19 9. The goal of public health policy is to make it easy for people to stay healthy,
20 and difficult to get sick or injured.
- 21 10. Instead of waiting for terrible things to happen, and only then responding, the
22 goal is to prevent bad things from happening in the first place.
23
24

DECLARATION OF
DAVID HEMENWAY

2

2:18-cv-01115-RSL

- 1 11. Reducing access to firearms by irresponsible persons is a major part of making
- 2 that goal a reality.
- 3 12. It is well recognized that firearms are inherently dangerous weapons that may
- 4 be used to inflict serious injury and death.
- 5 13. The evidence shows that strong gun laws are associated with lower-rates of
- 6 violent death across the United States.
- 7 14. Decades of firearms research demonstrates that firearms in the home not only
- 8 increase the risk of unintentional firearm injury but also increase the risk of
- 9 homicide and suicide—because of the increased risk of firearm homicide and
- 10 firearm suicide.
- 11 15. Plastic firearms pose a serious threat to public health and safety.
- 12 16. In the 1980s, gun manufacturers figured out a way to make firearms that were
- 13 made with more plastic and less metal.
- 14 17. The public health community advocated against these weapons, and Congress
- 15 responded by passing a federal law that made it illegal to sell them.
- 16 18. As a result, plastic firearms have not been produced commercially, distributed
- 17 widely, or caused serious public health problems.
- 18 19. But print-at-home plastic firearms threaten to change all of that.
- 19 20. Plastic firearms are more likely to be taken for toys by young children, which
- 20 may lead to an increase in unintentional child fatalities and injuries.
- 21 21. They may escape detection by metal detectors and therefore may be taken into
- 22 sensitive places like schools, courtrooms, and sporting-event venues.
- 23 22. And they are untraceable by law enforcement because they lack a serial number.
- 24

DECLARATION OF
DAVID HEMENWAY

3

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25. We must not wait to act until many people die or are injured, and public fear has increased from the inappropriate use of these dangerous weapons.



DAVID HEMENWAY

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The Honorable Robert S. Lasnik

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

STATE OF WASHINGTON, et al.

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
STATE; MICHAEL R. POMPEO, in his
official capacity as Secretary of State;
DIRECTORATE OF DEFENSE TRADE
CONTROLS; MIKE MILLER, in his official
capacity as Acting Deputy Assistant Secretary
of Defense Trade Controls; and SARAH
HEIDEMA, in her official capacity as Director
of Policy, Office of Defense Trade Controls
Policy; DEFENSE DISTRIBUTED; SECOND
AMENDMENT FOUNDATION, INC.; and
CONN WILLIAMSON

Defendants.

NO. 2:18-cv-01115-RSL

DECLARATION OF
REPRESENTATIVE ELIOT L. ENGEL
IN SUPPORT OF PLAINTIFFS'
MOTION FOR PRELIMINARY
INJUNCTION

Hearing Date: August 21, 2018

I, Eliot L. Engel, declare as follows:

1. I am over the age of 18 and have personal knowledge of all the facts stated herein.
2. I am the Ranking Member of the United States House of Representatives

Committee on Foreign Affairs (the "Committee"). I write to provide the Court certain facts and

DECLARATION OF
REPRESENTATIVE ELIOT L. ENGEL
2:18-cv-01115-RSL

1

ATTORNEY GENERAL OF WASHINGTON
800 Fifth Avenue, Suite 2000
Seattle, WA 98104-3188
(206) 464-7744

1 information about my Committee's grave concerns regarding the U.S. Department of State's (the
 2 "Department") temporary modification of the International Traffic in Arms Regulation (ITAR)
 3 in order to approve public release to permit Defense Distributed and its associates to publish on
 4 the Internet computer code for the printing of 3D firearms. The Department apparently took these
 5 actions to fulfill a Settlement Agreement between the Department and Defense Distributed, a
 6 "private defense firm" operated by a self-described "crypto-anarchist," and an associated
 7 organization and individual.

8 3. My Committee did not learn of the Department's decision to make the ITAR
 9 modification directly from the Department. Instead, on or about July 19, 2018, a representative
 10 of a non-profit organization notified a Committee staff member of the State Department's
 11 Settlement Agreement, and the decision to make the ITAR modification.

12 4. The failure of the Department to notify the Committee of the removal from the
 13 United States Munitions List (USML) of the computer code at issue in the case before the Court
 14 violated a federal statute. 22 U.S.C. § 2278(f) prohibits the Department from removing any item
 15 from the USML without providing 30 days' prior notice to the House Committee on Foreign
 16 Affairs and the Senate Committee on Foreign Relations. The Department failed to provide the
 17 Committee the notice required by 22 U.S.C. § 2278(f) before the modification removing the
 18 computer blueprints for printing 3D guns from the USML.

19 5. Immediately after learning of the Settlement Agreement and the decision to make
 20 the modification, Committee staff demanded to meet with Department officials. At this meeting,
 21 which occurred on July 24th, Committee staff expressed deep concerns about the Settlement
 22 Agreement and the modification, questioned the State Department officials about how the
 23
 24

1 Settlement Agreement came about, and stated that the Department's actions violated the
2 statutory notice requirement in 22 U.S.C. § 2278(f).

3 6. Based on the information I have received from Committee staff, I have concluded
4 that the Department of State was advised by attorneys at the U.S. Department of Justice to
5 implement the Settlement Agreement despite significant concerns that some officials of the
6 Department of State had, and continue to have, that the authorization to Defense Distributed
7 provided by the Settlement Agreement creates a risk to national security. These concerns stem
8 from the threats arising from widespread dissemination to the public worldwide of computer
9 code allowing the printing of guns, including non-metallic guns, on 3D printers.

10 7. On July 20, 2018, I wrote the Secretary of State expressing my disapproval of the
11 Department's actions and its failure to consult with Congress as required by § 2278(f). A true
12 and correct copy of this letter is attached as Exhibit 1. I expressed to the Secretary of State that
13 the removal of the computer code for 3D printing of firearms from the USML defeats U.S. laws
14 that require background checks and, because of the undetectability of plastic guns, makes it
15 virtually impossible to protect the public from terrorists, lone wolf killers, or mentally unstable
16 individuals. I also advised that the State Department had misused its authority in "temporarily"
17 modifying the ITAR because there can be nothing temporary about posting the blueprints for 3D
18 printing of weapons on the internet.

19 9. The removal of items from the USML, and the concomitant notice to the
20 Committee required by 22 U.S.C. § 2278(f), are rare.

21 10. Further, the notice required by 22 U.S.C. § 2278(f) is far from an administrative
22 formality, but instead has an important function for Congress. Congress pays close attention to
23
24

1 the notices and the nature of the items proposed to be removed from the USML. These notices
 2 enable Congress to exercise its constitutional oversight authority and ensure national security.

3 11. In reality, the Department typically accords the Committee more deference in the
 4 review process than even 22 U.S.C. § 2278(f) provides. It is common when the Department
 5 proposes to remove items from the USML for the Department to give significantly longer than
 6 30 days' notice to the Committee. The Department works intensively with Congress during this
 7 period. It meets regularly with staff, explains what it is seeking to remove from the list and why,
 8 and details the reasons the removal will not endanger national security or U.S. interests. There
 9 is an active back-and-forth between the Department and Congress during this process.

10 12. Congress does not simply rubber stamp removals from the USML. In this case,
 11 the Department's actions not only violated the statutory notice requirement but diverged from
 12 established practice when items are proposed for removal from the USML.

13 I declare under penalty of perjury under the laws of the United States of America that the
 14 foregoing is true and correct.

15 DATED this 7 day of August, 2018, at Washington, DC.

16
 17 Eliot L. Engel

18 Representative Eliot L. Engel
 19 Member, United States House of Representatives
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 21
 22
 23
 24

Exhibit 1

EDWARD R. ROYCE, CALIFORNIA
CHAIRMAN

AMY PORTER
CHIEF OF STAFF

THOMAS SHEEHY
STAFF DIRECTOR



ELIOT L. ENGEL, NEW YORK
RANKING DEMOCRATIC MEMBER

JASON STEINBAUM
DEMOCRATIC STAFF DIRECTOR

One Hundred Fifteenth Congress
U.S. House of Representatives
Committee on Foreign Affairs
2170 Rayburn House Office Building
Washington, DC 20515
www.foreignaffairs.house.gov

July 20, 2018

The Honorable Mike Pompeo
Department of State
2201 C Street, NW
Washington, DC 20520

Dear Mr. Secretary:

I write to register my profound concern about an action by Department of State officials to remove from export controls certain software for 3-D printing of firearms. This is exceptionally dangerous because it will promote global availability of such technical information and consequent unrestricted manufacture of firearms. This action was taken in settling a lawsuit: *Defense Distributed v. United States*.

There are several disturbing aspects of the Department's action. Foremost is the likelihood that weapons will become available to anyone with a laptop and a 3-D printer. This defeats US laws which require background checks on the sale of weaponry. The danger is magnified because 3-D printed firearms would be made of plastic and, therefore, undetectable by most security systems. With these stealthy weapons in the hands of terrorists, lone wolf killers, or mentally unstable individuals, it will become virtually impossible to protect anyone from gun violence.

Moreover, the text of the settlement, attached, suggests that the Department's officials are mis-using authority under Section 126.2 of the International Traffic in Arms Regulations to "temporarily" remove this technical information from the United States Munitions List (USML). However, as anyone who has ever posted something on the internet knows, once posted, the item is instantly and permanently available to all who seek it. Therefore, it is impossible to temporarily publish 3-D gun printing software on the internet. Inasmuch as Sec. 126.2 authority is reserved for use only in the interests of U.S. security and foreign policy, it stretches credulity to believe that release of this information is in the U.S. interest.

The Honorable Mike Pompeo
Department of State
2201 C Street, NW
Washington, DC 20520

Use of this temporary ITAR authority also suggests that Department officials sought a way to avoid complying with Section 38(f) of the Arms Export Control Act, which requires advance notification to Congress for any removal from the USML.

The settlement of this lawsuit is slated to go into effect by July 27th. I urge you to suspend the Department's implementation of the settlement immediately and prevent the inappropriate and dangerous release of this technical information.

Sincerely,



ELIOT L. ENGEL
Ranking Member